

K931 M v.4 year 1921

RP

Helena Public Library.

THE REVISED CODES OF MONTANA OF 1921

CONTAINING THE PERMANENT LAWS OF THE STATE IN
FORCE AT THE CLOSE OF THE SEVENTEENTH
LEGISLATIVE ASSEMBLY OF 1921

IN FOUR VOLUMES

COMPILED, REVISED AND ANNOTATED UNDER CHAPTER 195, LAWS OF 1919,
AND CHAPTER 109, LAWS OF 1921, AND PUBLISHED UNDER
CHAPTER 122, LAWS OF 1921

I. W. CHOATE

COMMISSIONER

VOLUME FOUR PENAL CODE



SAN FRANCISCO:
BANCROFT-WHITNEY COMPANY
1921

Copyright, 1921,
BY
BANCROFT-WHITNEY COMPANY

TABLE OF CONTENTS

PENAL CODE

THREE PARTS.

PART I. CRIMES AND PUNISHMENTS.

II. CRIMINAL PROCEDURE.

III. PENAL AND REFORMATORY INSTITUTIONS.

PART I.

CRIMES AND PUNISHMENTS, Chap. 1 to 55.

CONTENTS OF PART I.

DEFINITIONS AND PRELIMINARY PROVISIONS, Chap. 1.

CRIMINAL LIABILITY, Chap. 2.

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE, Chap. 3 and 4.

CRIMES AGAINST THE ELECTIVE FRANCHISE, Chap. 5 and 6.

CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE,
Chap. 7.

CRIMES AGAINST THE LEGISLATIVE POWER, Chap. 8.

CRIMES AGAINST PUBLIC JUSTICE, Chap. 9 to 15.

CRIMES AGAINST THE PERSON, Chap. 16 to 22.

CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND
MORALS, Chap. 23 to 36.

CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY, Chap. 37.

CRIMES AGAINST THE PUBLIC PEACE, Chap. 38.

CRIMES AGAINST THE REVENUE AND PROPERTY OF THE STATE,
Chap. 39.

CRIMES AGAINST PROPERTY, Chap. 40 to 55.

DEFINITIONS AND PRELIMINARY PROVISIONS, Chap. 1.

Chapter 1. Definitions and Preliminary Provisions.

CRIMINAL LIABILITY, Chap. 2.

Chapter 2. Persons Liable to Punishment—Parties to Crime.

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE, Chap. 3 and 4.

Chapter 3. Treason and Misprision of Treason.

4. Sedition—Criminal Syndicalism—Display of Red Flag.

CRIMES AGAINST THE ELECTIVE FRANCHISE, Chap. 5 and 6.

Chapter 5. Election Frauds and Offenses.

6. Offenses By and Against Candidates for Nomination and Election—
Contests. (Corrupt Practices Act.)

CRIMES BY AND AGAINST EXECUTIVE POWER OF THE STATE, Chap. 7.

Chapter 7. Offenses by Public Officers.

CONTENTS.

CRIMES AGAINST THE LEGISLATIVE POWER OF THE STATE, Chap. 8.

Chapter 8. Offenses Against the Legislature and By and Against Members Thereof.

CRIMES AGAINST PUBLIC JUSTICE, Chap. 9 to 15.

Chapter 9. Bribery and Corruption.

10. Rescues and Escapes.

11. Larceny and Falsification of Public Records and Jury-lists.

12. Perjury and Subornation of Perjury.

13. Falsifying Evidence.

14. Criminal Conspiracy and Illegal Practices in Restraint of Trade—Trusts
—Discriminations—Pooling Grain Warehouses—Destroying Food.

15. Other Miscellaneous Offenses Against Public Justice.

CRIMES AGAINST THE PERSON, Chap. 16 to 22.

Chapter 16. Homicide.

17. Mayhem.

18. Kidnaping.

19. Robbery.

20. Assaults.

21. Duels and Challenges—False Imprisonment.

22. Libel.

CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND MORALS, Chap. 23 to 36.

Chapter 23. Rape—Abduction—Carnal Abuse of Children—Adultery and Seduction—Prostitution of Women.

24. Abandonment and Neglect of Wife and Children.

25. Abortion.

26. Bigamy—Incest and Crime Against Nature.

27. Violating Sepulture and the Remains of the Dead.

28. Sundry Offenses Against Good Morals.

29. Intoxicating Liquors—Regulations Governing Manufacture, Sale, and Use.

30. Maintenance of Common Nuisances in Connection With the Sale of Intox-
icating Liquors, Prostitution, and Gambling.

31. Obscene Literature—Indecent Exposure—Houses of Ill-fame—Prohibition
of Certain Advertisements.

32. Lotteries.

33. Gambling.

34. Pawnbrokers—Prohibitions Governing.

35. Poolhalls, Billiard-halls, and Bowling-alleys—Prohibition Governing.

36. Miscellaneous Injuries to and Offenses Against Persons.

CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY, Chap. 37.

Chapter 37. Miscellaneous Crimes Against the Public Health and Safety.

CRIMES AGAINST THE PUBLIC PEACE, Chap. 38.

Chapter 38. Miscellaneous Crimes Against the Public Peace.

CRIMES AGAINST THE REVENUE AND PROPERTY OF THE STATE, Chap. 39.

Chapter 39. Embezzlement and Other Offenses by Public Officers.

CRIMES AGAINST PROPERTY, Chap. 40 to 55.

Chapter 40. Arson.

41. Burglary and Housebreaking—Possession of Burglarious Instruments and
Deadly Weapons.

42. Forgery and Counterfeiting.

43. Larceny.

44. Extortion.

45. False Personation and Cheats—False Advertising—Fakirs.

46. Fraudulent Destruction of Insured Property.

47. False Weights and Measures.

48. Fraudulent Conveyances.

49. Frauds in the Management of Corporations.

50. Fraudulent Issue of Documents of Title to Merchandise.

51. Malicious Injury to Railroads, Highways, and Other Property.

52. Malicious Mischief Generally.

53. Cruelty to Animals.

54. Miscellaneous Offenses.

55. Punishments—Attempts and Other General Provisions.

PART II.

CRIMINAL PROCEDURE, Chap. 1 to 59.

CONTENTS OF PART II.

- PRELIMINARY PROVISIONS, Chap. 1 and 2.
- PREVENTION OF PUBLIC OFFENSES, Chap. 3 to 6.
- PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS, Chap. 7 and 8.
- PROCEEDINGS IN CRIMINAL ACTIONS, Chap. 9 to 14.
- PROCEEDINGS ON INFORMATION OR INDICTMENT, Chap. 15 to 17.
- PROCEEDINGS AFTER INFORMATION OR INDICTMENT AND BEFORE THE COMMENCEMENT OF THE TRIAL, Chap. 18 to 23.
- PROCEEDINGS AFTER COMMENCEMENT OF TRIAL AND BEFORE JUDGMENT, Chap. 24 to 30.
- JUDGMENT AND EXECUTION, Chap. 31 and 32.
- APPEALS TO THE SUPREME COURT, Chap. 33 and 34.
- BAIL AND SURRENDER OF THE DEFENDANT, Chap. 35 to 39.
- WITNESS IN CRIMINAL ACTIONS, Chap. 40 to 43.
- MISCELLANEOUS PROCEEDINGS, Chap. 44 to 51.
- PROCEEDINGS IN JUSTICE AND POLICE COURTS AND APPEALS TO DISTRICT COURTS, Chap. 52.
- SPECIAL PROCEEDINGS OF A CRIMINAL NATURE, Chap. 53 to 58.
- DISPOSITION OF FINES AND FORFEITURES, Chap. 59.

PRELIMINARY PROVISIONS, Chap. 1 and 2.

- Chapter 1. Rights of Defendants.
- 2. Definitions—Prosecution of Criminal Actions—Jurisdiction of Courts.

PREVENTION OF PUBLIC OFFENSES, Chap. 3 to 6.

- Chapter 3. Lawful Resistance—Intervention of Officers of Justice.
- 4. Security to Keep the Peace.
- 5. Police in Cities and Towns and Their Admittance at Public Meetings.
- 6. Suppression of Riots.

PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS, Chap. 7 and 8.

- Chapter 7. Impeachments.
- 8. Removal of Officers Otherwise Than by Impeachment.

PROCEEDINGS IN CRIMINAL ACTIONS, Chap. 9 to 14.

- Chapter 9. Local Jurisdiction of Public Officers.
- 10. Time of Commencing Criminal Actions.
- 11. The Complaint.
- 12. The Warrant of Arrest—Proceedings on Execution of the Warrant.
- 13. Arrest—By Whom and How Made—Retaking After Escape.
- 14. Examination and Commitment or Discharge of the Defendant.

PROCEEDINGS ON INFORMATION OR INDICTMENT, Chap. 15 to 17.

- Chapter 15. Preliminary Provisions—Filing the Information.
- 16. The Grand Jury—Its Formation, Powers, and Duties—Finding and Presenting an Indictment.
- 17. Rules of Pleading and Form of the Information and Indictment.

PROCEEDINGS AFTER INFORMATION OR INDICTMENT AND BEFORE THE COMMENCEMENT OF THE TRIAL, Chap. 18 to 23.

- Chapter 18. Arraignment of the Defendant.
- 19. Setting Aside the Indictment or Information.
- 20. Demurrer.
- 21. Pleas.
- 22. Change of Place of Trial.
- 23. Mode of Trial—Formation of Jury and Calendar of Issues—Postponement of Trial.

CONTENTS.

PROCEEDINGS AFTER COMMENCEMENT OF TRIAL AND BEFORE JUDGMENT, Chap. 24 to 30.

- Chapter 24. Challenging the Jury.
- 25. The Trial.
- 26. Conduct of Jury After Submission of Case.
- 27. The Verdict.
- 28. Bills of Exception.
- 29. New Trials.
- 30. Arrest of Judgment.

JUDGMENT AND EXECUTION, Chap. 31 and 32.

- Chapter 31. The Judgment—Indeterminate Sentence—Suspension of Sentence and Probation.
- 32. The Execution.

APPEALS TO THE SUPREME COURT, Chap. 33 and 34.

- Chapter 33. Appeals—When Allowed—How Taken—The Effect Thereof.
- 34. Dismissing Appeals for Irregularity—Argument on the Appeal—Judgment Upon Appeal.

BAIL AND SURRENDER OF THE DEFENDANT, Chap. 35 to 39.

- Chapter 35. In What Cases Defendant May Be Admitted to Bail.
- 36. Bail on Being Held to Answer Before Information.
- 37. Bail on Indictment or Information Before Conviction.
- 38. Bail on Appeal—Deposit Instead of Bail.
- 39. Surrender of Defendant—Forfeiture of Bail—Recommitment of the Defendant.

WITNESS IN CRIMINAL ACTION, Chap. 40 to 43.

- Chapter 40. Who May Be Witness in Criminal Actions.
- 41. Compelling the Attendance of Witnesses.
- 42. Examination of Witnesses Conditionally.
- 43. Examination of Witnesses on Commission.

MISCELLANEOUS PROCEEDINGS, Chap. 44 to 51.

- Chapter 44. Proceedings on Inquiry as to the Sanity of a Defendant.
- 45. Comprising Offenses by Leave of Court.
- 46. Dismissal of Actions for Want of Prosecution or Other Reasons.
- 47. Proceedings Against Corporations.
- 48. Disposal of Property Stolen or Embezzled.
- 49. Pardons—Commutations—Remissions—Respite—Board of Pardons.
- 50. Proceedings in Bastardy.
- 51. Proceedings Against Delinquent Children and Juvenile Delinquent Persons.

PROCEEDINGS IN JUSTICE AND POLICE COURTS AND APPEALS TO DISTRICT COURTS, Chap. 52.

- Chapter 52. Justices and Police Court Proceedings—Appeals.

SPECIAL PROCEEDINGS OF A CRIMINAL NATURE, Chap. 53 to 58.

- Chapter 53. The Writ of Habeas Corpus.
- 54. Coroners' Inquests.
- 55. Search Warrants.
- 56. Proceedings Against Fugitives From Justice.
- 57. Miscellaneous Provisions Respecting Special Proceeding of a Criminal Nature.
- 58. Proceedings for Obtaining Prisoner's Attendance at Court.

DISPOSITION OF FINES AND FORFEITURES, Chap. 59.

- Chapter 59. How Fines and Forfeitures Are Disposed of.

PART III.

PENAL AND REFORMATORY INSTITUTIONS, Chap. 1 to 6.

- Chapter 1. The State Prison.
- 2. County Jails.
- 3. Montana State Industrial School.
- 4. State Parole Commissioner.
- 5. State Vocational School for Girls.
- 6. Commitment of Female Persons to Reformatory Institutions.

VOLUME FOUR
PENAL CODE

PENAL CODE

THREE PARTS.

PART I. CRIMES AND PUNISHMENTS.

II. CRIMINAL PROCEDURE.

III. PENAL AND REFORMATORY INSTITUTIONS.

PART I.

CRIMES AND PUNISHMENTS.

CONTENTS OF PART I.

DEFINITIONS AND PRELIMINARY PROVISIONS, Chap. 1.

CRIMINAL LIABILITY, Chap. 2.

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE, Chap. 3 and 4.

CRIMES AGAINST THE ELECTIVE FRANCHISE, Chap. 5 and 6.

CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE,
Chap. 7.

CRIMES AGAINST THE LEGISLATIVE POWER OF THE STATE, Chap. 8.

CRIMES AGAINST PUBLIC JUSTICE, Chap. 9 to 15.

CRIMES AGAINST THE PERSON, Chap. 16 to 22.

CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND
MORALS, Chap. 23 to 36.

CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY, Chap. 37.

CRIMES AGAINST THE PUBLIC PEACE, Chap. 38.

CRIMES AGAINST THE REVENUE AND PROPERTY OF THE STATE,
Chap. 39.

CRIMES AGAINST PROPERTY, Chap. 40 to 55.

DEFINITIONS AND PRELIMINARY PROVISIONS, Chap. 1.

Chapter 1. Definitions and Preliminary Provisions.

CRIMINAL LIABILITY, Chap. 2.

Chapter 2. Persons Liable to Punishment—Parties to Crime.

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE, Chap. 3 and 4.

Chapter 3. Treason and Misprision of Treason.

4. Sedition—Criminal Syndicalism—Display of Red Flag.

CRIMES AGAINST THE ELECTIVE FRANCHISE, Chap. 5 and 6.

Chapter 5. Election Frauds and Offenses.

6. Offenses By and Against Candidates for Nomination and Election—Contests. (Corrupt Practices Act.)

CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE, Chap. 7.

Chapter 7. Offenses by Public Officers.

CRIMES AGAINST THE LEGISLATIVE POWER OF THE STATE, Chap. 8.

Chapter 8. Offenses Against the Legislature and By and Against Members Thereof.

CRIMES AGAINST PUBLIC JUSTICE, Chap. 9 to 15.

Chapter 9. Bribery and Corruption.

10. Rescues and Escapes.
11. Larceny and Falsification of Public Records and Jury Lists.
12. Perjury and Subornation of Perjury.
13. Falsifying Evidence.
14. Criminal Conspiracy and Illegal Practices in Restraint of Trade
— Trusts — Discriminations — Pooling Grain Warehouses —
Destroying Food.
15. Other Miscellaneous Offenses Against Public Justice.

CRIMES AGAINST THE PERSON, Chap. 16 to 22.

Chapter 16. Homicide.

17. Mayhem.
18. Kidnaping.
19. Robbery.
20. Assaults.
21. Duels and Challenges—False Imprisonment.
22. Libel.

CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND MORALS,
Chap. 23 to 36.Chapter 23. Rape—Abduction—Carnal Abuse of Children—Adultery and
Seduction—Prostitution of Women.

24. Abandonment and Neglect of Wife and Children.
25. Abortion.
26. Bigamy—Incest and Crime Against Nature.
27. Violating Sepulture and the Remains of the Dead.
28. Sundry Offenses Against Good Morals.
29. Intoxicating Liquors—Regulations Governing Manufacture, Sale,
and Use.
30. Maintenance of Common Nuisances in Connection With the Sale
of Intoxicating Liquors, Prostitution, and Gambling.
31. Obscene Literature—Indecent Exposure—Houses of Ill-fame—
Prohibition of Certain Advertisements.
32. Lotteries.
33. Gambling.
34. Pawnbrokers—Prohibitions Governing.
35. Pool Halls, Billiard Halls, and Bowling Alleys—Prohibitions
Governing.
36. Miscellaneous Injuries to and Offenses Against Persons.

CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY, Chap. 37.

Chapter 37. Miscellaneous Crimes Against the Public Health and Safety.

CRIMES AGAINST THE PUBLIC PEACE, Chap. 38.

Chapter 38. Miscellaneous Crimes Against the Public Peace.

CRIMES AGAINST THE REVENUE AND PROPERTY OF THE STATE, Chap. 39.

Chapter 39. Embezzlement and Other Offenses by Public Officers.

CRIMES AGAINST PROPERTY, Chap. 40 to 55.

Chapter 40. Arson.

41. Burglary and Housebreaking—Possession of Burglarious Instruments and Deadly Weapons.
42. Forgery and Counterfeiting.
43. Larceny.
44. Extortion.
45. False Personation and Cheats—False Advertising—Fakers.
46. Fraudulent Destruction of Insured Property.
47. False Weights and Measures.
48. Fraudulent Conveyances.
49. Frauds in the Management of Corporations.
50. Fraudulent Issue of Documents of Title to Merchandise.
51. Malicious Injury to Railroads, Highways, and Other Property.
52. Malicious Mischief Generally.
53. Cruelty to Animals.
54. Miscellaneous Offenses.
55. Punishments—Attempts and Other General Provisions.

CHAPTER 1.

DEFINITIONS AND PRELIMINARY PROVISIONS.

- | | |
|---------|---|
| Section | 10708. Divisions of the Code. |
| | 10709. When This Act Takes Effect. |
| | 10710. Construction of the Penal Code. |
| | 10711. Provisions Similar to Existing Laws, How Construed. |
| | 10712. Effect of Code Upon Past Offenses. |
| | 10713. Certain Terms Defined in the Senses in Which They Are Used in This Code. |
| | 10714. What Intent to Defraud Is Sufficient. |
| | 10715. Civil Remedies Preserved. |
| | 10716. Proceedings to Impeach or Remove Officers and Others Preserved. |
| | 10717. Authority of Court-martial Preserved—Courts of Justice to Punish for Contempt. |
| | 10718. Sections Declaring Crimes Punishable—Duty of Court. |
| | 10719. Punishments, How Determined. |
| | 10720. Witness' Testimony May Be Read Against Him on Prosecution for Perjury. |
| | 10721. Crime and Public Offense Defined. |
| | 10722. Crimes, How Divided. |
| | 10723. Felony and Misdemeanor Defined. |
| | 10724. Punishment of Felony, When Not Otherwise Prescribed. |
| | 10725. Punishment of Misdemeanor, When Not Otherwise Prescribed. |
| | 10726. To Constitute Crime There Must Be Unity of Act and Intent. |
| | 10727. Intent, How Manifested, and Who Considered of Sound Mind. |
| | 10728. Drunkenness No Excuse for Crime—When It May Be Considered. |

10708. Divisions of the code. This act shall be known as the Penal Code of Montana, and is divided into three parts, as follows:

Part I. Crimes and Punishments.

II. Criminal Procedure.

III. Penal and Reformatory Institutions.

History: En. Sec. 1, Pen. C. 1895; re-en. Sec. 8093, Rev. C. 1907. Cal. Pen. C. Sec. 1.

Note.—Subdivision 3 of this section changed to conform to present arrangement of codes.

10709. When this act takes effect. This code takes effect at twelve o'clock, noon, on the first day of July, A. D. 1895.

History: En. Sec. 2, Pen. C. 1895; re-en. Sec. 8094, Rev. C. 1907. Cal. Pen. C. Sec. 2.

10710. Construction of the Penal Code. The rule of the common law, that penal statutes are to be strictly construed, has no application to this code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its object and to promote justice.

History: En. Sec. 4, Pen. C. 1895; re-en. Sec. 8096, Rev. C. 1907. Cal. Pen. C. Sec. 4.

111 Pac. 727, 31 L. R. A. (N.S.) 1155; Smith v. Smith, 224 Fed. 1, 5, 139 C. C. A. 465.

Cited or applied as section 8096, Revised Codes, in John v. Northern Pacific Ry. Co., 42 Mont. 18, 43, 111 Pac. 632, 32 L. R. A. (N.S.) 85; State v. Penny, Mont. 118, 123,

For text treatment of "Criminal Law," see Cal. Jur. and 8 R. C. L. 38.

10711. Provisions similar to existing laws, how construed. The provisions of this code, so far as they are the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

History: En. Sec. 5, Pen. C. 1895; re-en. Sec. 8097, Rev. C. 1907. Cal. Pen. C. Sec. 5.

10712. Effect of code upon past offenses. No act or omission, commenced after twelve o'clock, noon, of the day on which this code takes effect as a law, is criminal or punishable, except as prescribed or authorized by this code, or by some of the statutes which it specifies as continuing in force and as not affected by its provisions, or by some ordinance, municipal, county, or township regulation, passed or adopted under any such statutes, and in force when this code takes effect. Any act or omission commenced prior to that time may be inquired of, prosecuted, and punished in the same manner as if this code had not been passed.

History: En. Sec. 6, Pen. C. 1895; re-en. Sec. 8098, Rev. C. 1907. Cal. Pen. C. Sec. 6.

10713. Certain terms defined in the senses in which they are used in this code. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" includes a corporation as well as a natural person; writing includes printing; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person does not write, his name being written near it, and witnessed by a person who writes his own name as a witness. The following words, also, have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "wilfully," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage.

2. The words "neglect," "negligence," "negligent," and "negligently" import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.

3. The word "corruptly" imports a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.

4. The words "malice" and "maliciously" import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

5. The word "knowingly" imports only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of such act or omission.

6. The word "bribe" signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his action, vote, or opinion, in any public or official capacity.

7. The word "vessel," when used with reference to shipping, includes ships of all kinds, steamboats, canal-boats, barges, and every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

8. The words "peace officer" signify any one of the officers mentioned in section 11620 of this code.

9. The word "magistrate" signifies any one of the officers mentioned in section 11619 of this code.

10. The word "property" includes both real and personal property.

11. The words "real property" are coextensive with lands, tenements, and hereditaments.

12. The words "personal property" include money, goods, chattels, things in action, and evidences of debt.

13. The word "month" means a calendar month, unless otherwise expressed.

14. The word "will" includes codicils.

15. The word "writ" signifies any order or precept in writing, issued in the name of the state, or of a court or judicial officer, and the word "process" a writ or summons issued in the course of judicial proceedings.

16. Words and phrases must be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, must be construed according to such peculiar and appropriate meaning.

17. Words giving a joint authority to three or more public officers or other persons are construed as giving such authority to a majority of them, unless it be otherwise expressed in the act giving the authority.

18. When the seal of a court or public officer is required by law to be affixed to any paper, the word "seal" includes an impression of such seal upon the paper alone, or upon any substance attached to the paper capable of receiving a visible impression. The seal of a private person may be made in like manner, or by the scroll of a pen, or by writing the word "seal" against his name.

19. The word "state" when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words "United States" may include the district and territories.

History: En. Sec. 7, Pen. C. 1895; re-en. Sec. 8099, Rev. C. 1907. Cal. Pen. C. Sec. 7.

The right of an employee to work is not "property," within the definition of that term given in this section. In re McCabe, 29 Mont. 28, 30, 73 Pac. 1106.

For the interpretation of paragraph 16 of this section, with reference to the words "private banker" and "individual banker," as used in the statute regarding fraudulent insolvencies, see In re Wisner, 36 Mont. 298, 309, 92 Pac. 958.

The word "wilfully," when applied to the intent with which an act is done or omitted, either in criminal or civil cases, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire any advantage. Haddox v. Northern Pacific Ry. Co., 43 Mont. 8, 15, 113 Pac. 1119.

Though the term "person" ordinarily refers to a living human being—a natural person—the definition given it by this and other sections of the codes includes corporations as well as natural persons. In re Beck's Estate, 44 Mont. 561, 572, 121 Pac. 784.

Cited or applied as section 7, Penal Code, in State v. Bloor, 20 Mont. 574, 583, 52 Pac. 611; In re McCabe, 29 Mont. 28, 30, 73 Pac. 1106; State v. Fuller, 34 Mont. 12, 27, 85 Pac. 369, 9 Ann. Cas. 648, 8 L. R. A. (N. S.) 762; State v. Schaefer, 35 Mont. 217, 220, 88 Pac. 792; as section 8099, Revised Codes, in Jones v. Shannon, 55 Mont. 225, 232, 175 Pac. 882.

"Owner" in statute relating to crimes as including tenant for years, see note in Ann. Cas. 1912A, 317.

10714. What intent to defraud is sufficient. Whenever, by any of the provisions of this code, an intent to defraud is required in order to constitute any offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate, whatever.

History: En. Sec. 8, Pen. C. 1895; re-en. Sec. 8100, Rev. C. 1907. Cal. Pen. C. Sec. 8.

10715. Civil remedies preserved. The omission to specify or affirm in this code any liability to damages, penalty, forfeiture, or other remedy imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

History: En. Sec. 9, Pen. C. 1895; re-en. Sec. 8101, Rev. C. 1907. Cal. Pen. C. Sec. 9.

10716. Proceedings to impeach or remove officers and others preserved. The omission to specify or affirm in this code any ground of forfeiture of a public office, or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose, or suspend any public officer or other person holding any trust, appointment, or other special authority conferred by law, does not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition, or suspension.

History: En. Sec. 10, Pen. C. 1895; re-en. Sec. 8102, Rev. C. 1907. Cal. Pen. C. Sec. 10.

10717. Authority of court-martial preserved—Courts of justice to punish for contempt. This code does not affect any power conferred by

law upon any court-martial, or other military authority or officer, to impose or inflict punishment upon offenders; nor any power conferred by law upon any public body, tribunal, or officer, to impose or inflict punishment for a contempt.

History: En. Sec. 11, Pen. C. 1895; re-en. Sec. 8103, Rev. C. 1907. Cal. Pen. C. Sec. 11.

10718. Sections declaring crimes punishable—Duty of court. The several sections of this code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence, to determine and impose the punishment prescribed, except in cases where a jury is authorized to determine and impose the same.

History: En. Sec. 12, Pen. C. 1895; re-en. Sec. 8104, Rev. C. 1907. Cal. Pen. C. Sec. 12.

10719. Punishments, how determined. Whenever in this code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court or by the jury authorized to pass sentence, within such limits as may be prescribed by this code.

History: En. Sec. 13, Pen. C. 1895; re-en. Sec. 8105, Rev. C. 1907. Cal. Pen. C. Sec. 13.

10720. Witness' testimony may be read against him on prosecution for perjury. The various sections of this code, which declare that evidence obtained upon the examination of a person as a witness cannot be received against him in any criminal proceeding, do not forbid such evidence being proved against such person upon any proceedings founded upon a charge of perjury committed in such examination.

History: En. Sec. 14, Pen. C. 1895; re-en. Sec. 8106, Rev. C. 1907. Cal. Pen. C. Sec. 14.

10721. Crime and public offense defined. A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, either of the following punishments:

1. Death;
2. Imprisonment;
3. Fine;
4. Removal from office; or,
5. Disqualification to hold and enjoy any office of honor, trust, or profit in this state.

History: En. Sec. 15, Pen. C. 1895; re-en. Sec. 8107, Rev. C. 1907. Cal. Pen. C. Sec. 15.

A contempt of court, punishable by fine or imprisonment, or both, is a public offense under this section. State ex rel. Flynn v. District Court, 24 Mont. 33, 35, 60 Pac. 493.

The threatened violation of a town ordinance is not a "public offense" within the meaning of this section. State ex rel. Streit v. Justice Court, 45 Mont. 375, 380, 123 Pac. 405, 48 L. R. A. (N.S.) 156.

A proceeding for the summary removal of a county attorney, for misconduct, even though instituted by a private person, is a public proceeding, and, though it is summary in its nature, is to be classed as a prosecution for crime. State ex rel. McGrade v. District Court, 52 Mont. 371, 373, 157 Pac. 1157.

Cited or applied as section 8107, Revised Codes, in State v. Driscoll, 49 Mont. 558, 560, 144 Pac. 153.

10722. Crimes, how divided. Crimes are divided into:

1. Felonies; and,
2. Misdemeanors.

History: En. Sec. 3, p. 189, Cod. Stat. 1871; re-en. Sec. 3, 3d Div. Rev. Stat. 1879; re-en. Sec. 3, 3d Div. Comp. Stat. 1887; re-en. Sec. 16, Pen. C. 1895; re-en. Sec. 8108, Rev. C. 1907. Cal. Pen. C. Sec. 16.

Cited or applied as section 16, Penal Code, in State ex rel. City of Butte v. District Court, 37 Mont. 202, 206, 95 Pac. 841.

10723. Felony and misdemeanor defined. A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime is a misdemeanor. When a crime, punishable by imprisonment in the state prison, is also punishable by fine or imprisonment in a county jail, in the discretion of the court or jury, it is a misdemeanor for all purposes after a judgment imposing a punishment other than imprisonment in the state prison.

History: En. Sec. 4, p. 190, Cod. Stat. 1871; re-en. Sec. 4, 3d Div. Rev. Stat. 1879; re-en. Sec. 4, 3d Div. Comp. Stat. 1887; amd. Sec. 17, Pen. C. 1895; re-en. Sec. 8109, Rev. C. 1907. Cal. Pen. C. Sec. 17.

Cited or applied as section 4, Third Division Revised Statutes 1879, in Territory v. Duncan, 5 Mont. 478, 6 Pac. 353.

10724. Punishment of felony, when not otherwise prescribed. Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 18, Pen. C. 1895; re-en. Sec. 8110, Rev. C. 1907. Cal. Pen. C. Sec. 18.

either by death or imprisonment in the state prison, and every misdemeanor by fine or imprisonment in the county jail. State ex rel. City of Butte v. District Court, 37 Mont. 202, 206, 95 Pac. 841.

Generally, every felony is punishable

10725. Punishment of misdemeanor, when not otherwise prescribed. Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or both.

Related sections: 10951, 11598.

History: En. Sec. 19, Pen. C. 1895; re-en. Sec. 8111, Rev. C. 1907. Cal. Pen. C. Sec. 19.

Cited or applied as section 19, Penal Code, in State v. Woodman, 26 Mont. 348, 354, 67 Pac. 1118; State ex rel. City of Butte v. District Court, 37 Mont. 202, 206, 95 Pac. 841.

10726. To constitute crime there must be unity of act and intent. In every crime or public offense there must exist a union or joint operation of act and intent, or criminal negligence.

History: En. Sec. 1, p. 176, Bannack Stat.; amd. Sec. 1, p. 269, Cod. Stat. 1871; re-en. Sec. 1, 4th Div. Rev. Stat. 1879; re-en. Sec. 1, 4th Div. Comp. Stat. 1887; amd. Sec. 20, Pen. C. 1895; re-en. Sec. 8112, Rev. C. 1907. Cal. Pen. C. Sec. 20.

On the question of insanity in homicide, the court should instruct in the language of this and the following section, then define insanity as any weakness or defect of the mind rendering it incapable of entertaining in the particular instance the criminal intent, supplementing the definition by the comment that criminal responsibility is to be determined solely by defendant's capacity to conceive and entertain the intent to commit the particular crime. State v. Keerl, 29 Mont. 508, 521, 75 Pac. 362, 101 Am. St. Rep. 579.

In view of this and the following section an insane person in criminal law is one who is mentally unable to form a criminal intent. State v. Keerl, 29 Mont. 508, 520, 75 Pac. 362, 101 Am. St. Rep. 579.

An instruction embodying the provisions of this and the following section, upon the presence of joint operation of act and intent in order to constitute a crime, should be given in every criminal prosecution, especially when requested by defendant. *State v. Allen*, 34 Mont. 403, 418, 87 Pac. 177.

An instruction charging the jury that, when an unlawful act is shown to have been deliberately committed for the purpose of injuring another, it is presumed to have been committed with a malicious and guilty intent, and that the law presumes that a person intends the ordinary consequences of any voluntary act committed by him, may mislead the jury, and should not be given in a prosecution for assault in the first degree, the very gist of which

offense is the intent with which it was committed. *State v. Schaefer*, 35 Mont. 217, 221, 88 Pac. 792.

In a statutory offense, as for collecting illegal fees, the intent is conclusively presumed. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 326, 119 Pac. 1103, Ann. Cas. 1913B, 396.

Cited or applied as section 8112, Revised Codes, in *Valley Mer. Co. v. St. Paul F. & M. Ins. Co.*, 49 Mont. 430, 433, 143 Pac. 559, Ann. Cas. 1916A, 1126, L. R. A. 1915B, 327; *State v. Smith*, 57 Mont. 563, 580, 190 Pac. 107.

Necessity of pleading and proving intent when not made element of offense by statute, see note in Ann. Cas. 1914D, 181.

10727. Intent, how manifested, and who considered of sound mind. The intent or intention is manifested by the circumstances connected with the offense, and the sound mind and discretion of the accused. All persons are of sound mind who are neither idiots nor lunatics, nor affected with insanity.

History: En. Secs. 2, 3, p. 176, *Bannack Stat.*; amd. Secs. 2, 3, p. 269, *Cod. Stat.* 1871; re-en. Secs. 2, 3, 4th Div. *Rev. Stat.* 1879; re-en. Secs. 2, 3, 4th Div. *Comp. Stat.* 1887; amd. Sec. 21, *Pen. C.* 1895; re-en. Sec. 8113, *Rev. C.* 1907. *Cal. Pen. C. Sec. 21.*

An instruction in a criminal case, in the language of this section was not objectionable, the expression "the offense" having reference to the crime charged in the information, and not being subject to the criticism that it assumed that in fact a crime had been committed. *State v. Gordon*, 35 Mont. 458, 467, 90 Pac. 173.

The presumption that all persons are of sound mind who are neither idiots nor lunatics, nor affected with insanity, attaches not only in a criminal case in which

the defense of insanity is interposed, but generally to human conduct in the relations of life, and the giving of an instruction to that effect in a will contest in which the sanity of the testator was called in question was not error. In *re Murphy's Estate*, 43 Mont. 353, 373, 116 Pac. 1004, Ann. Cas. 1912C, 380.

Cited or applied as section 21, *Penal Code*, in *State v. Keerl*, 29 Mont. 508, 520, 75 Pac. 362, 101 Am. St. Rep. 579; *State v. Allen*, 34 Mont. 403, 418, 87 Pac. 177; *State v. Schaefer*, 35 Mont. 217, 221, 88 Pac. 792; *State v. Smith*, 57 Mont. 563, 580, 190 Pac. 107.

Irresistible or uncontrollable impulse as defense to criminal charge, see notes in Ann. Cas. 1912A, 36; Ann. Cas. 1916A, 984; Ann. Cas. 1917C, 609.

10728. Drunkenness no excuse for crime—When it may be considered. No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his being in such a condition. But, whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute any particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act.

History: En. Sec. 22, *Pen. C.* 1895; re-en. Sec. 8114, *Rev. C.* 1907. *Cal. Pen. C. Sec. 22.*

Evidence that defendant's reason had been clouded by intoxication during the earlier hours of the day on which the homicide was committed, and that he suffered

periodical attacks due to a diseased condition of the heart, did not warrant an instruction upon the question of his insanity. *State v. Kumm*, 55 Mont. 436, 448, 178, Pac. 288.

Cited or applied as section 8114, Revised Codes, in *State v. Leahey*, 44 Mont. 354, 370, 120 Pac. 234.

Drunkenness as an excuse for crime, see notes in 40 Am. Rep. 560; 36 L. R. A. 465. Criminal responsibility of person mentally diseased from use of intoxicants, see note in 19 Ann. Cas. 1169.

CHAPTER 2.

PERSONS LIABLE TO PUNISHMENT—PARTIES TO CRIME.

- Section 10729. Who Are Capable of Committing Crimes.
 10730. Who Are Liable to Punishment.
 10731. Classification of Parties to Crime.
 10732. Who Are Principals.
 10733. Who Are Accessories.
 10734. Punishment of Accessories.

10729. Who are capable of committing crimes. All persons are capable of committing crimes except those belonging to the following classes:

1. Children under the age of fourteen, and over the age of seven, in the absence of clear proof that, at the time of committing the act charged against them, they knew its wrongfulness. Children under the age of seven are not capable of committing crime.

2. Idiots.

3. Lunatics and insane persons.

4. Persons who committed the act or made the omission charged under an ignorance or mistake of fact which disproves any criminal intent.

5. Persons who committed the act charged without being conscious thereof.

6. Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence.

7. Married women (except for felonies) acting under threats, command, or coercion of their husbands.

8. Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to, and did, believe their lives would be endangered if they refused.

History: En. Sec. 30, Pen. C. 1895; re-en. Sec. 8116, Rev. C. 1907. Cal. Pen. C. Sec. 26.

Cited or applied as section 30, Penal Code, in *State v. Fisher*, 23 Mont. 540, 557, 59 Pac. 919.

Note.—For earlier acts see sections 4 to 9, pp. 176 and 177, Bannack Statutes; sections 4 to 11, p. 270, Codified Statutes 1871; sections 4 to 11, Fourth Division Revised Statutes 1879; sections 4 to 11, Fourth Division Compiled Statutes 1887.

Responsibility of deaf and dumb persons for crime, see notes in 16 Ann. Cas. 444; Ann. Cas. 1917B, 240.

10730. Who are liable to punishment. The following persons are liable to punishment under the laws of this state:

1. All persons who commit, in whole or in part, any crime within this state.

2. All who commit larceny or robbery out of this state, and bring to, or are found with the property stolen in, this state.

3. All who, being out of this state, cause or aid, advise or encourage, another person to commit a crime within this state, and are afterwards found therein.

History: En. Sec. 31, Pen. C. 1895; re-en. Sec. 8117, Rev. C. 1907. Cal. Pen. C. Sec. 27.

10731. Classification of parties to crime. The parties to crimes are classified as:

1. Principals; and,
2. Accessories.

History: En. Sec. 40, Pen. C. 1895; re-en. Sec. 8118, Rev. C. 1907. Cal. Pen. C. Sec. 30.

Cited or applied as section 40, Penal Code, in *State v. De Wolfe*, 29 Mont. 415, 423, 74 Pac. 1084.

10732. Who are principals. All persons concerned in the commission of a crime, whether it be a felony or misdemeanor, and whether they directly commit the act constituting the offense, or aid and abet in its commission, or, not being present, have advised and encouraged its commission, and all persons counseling, advising, or encouraging children under the age of fourteen years, lunatics, or idiots, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command, or coercion, compel another to commit any crime, are principals in any crime so committed.

History: En. Sec. 41, Pen. C. 1895; re-en. Sec. 8119, Rev. C. 1907. Cal. Pen. C. Sec. 31.

Note.—For earlier acts see sections 10 and 11, p. 177, Bannack Statutes; sections 12 and 13, p. 271, Codified Statutes 1871; sections 12 and 13, Fourth Division Revised Statutes 1879; sections 12 and 13, Fourth Division Compiled Statutes 1887.

An accomplice is one who is guilty of complicity in the crime charged, either by being present and aiding or abetting in it, or by having advised and encouraged it, though absent from the place at which it is committed. *State v. Spotted Hawk*, 22 Mont. 33, 65, 55 Pac. 1026.

An instruction should follow the language of the statute, and state that accessories are those who "advise and encourage," instead of "advise or encourage," the commission of crime. *State v. Geddes*, 22 Mont. 68, 88, 55 Pac. 919.

The distinction recognized by the common law between principals and accessories before the fact is abolished in this state. *State v. Dotson*, 26 Mont. 305, 308, 67 Pac. 938.

An instruction in a prosecution for grand larceny, that a person who "advised or encouraged" another in the commission of a crime is to be considered a principal, instead of "advised and encouraged," was not prejudicially erroneous, the words "ad-

vised" and "encouraged" being synonymous in popular meaning. *State v. Allen*, 34 Mont. 403, 416, 87 Pac. 177.

In a prosecution for arson, where there is some testimony that defendant procured another to set the fire, the giving of instructions, embodying the provisions of this section and section 11863, is proper; as is also the refusing of others, directing the jury to find for the defendant, unless they are satisfied beyond a reasonable doubt that he was present personally and set the fire himself. *State v. Chevigny*, 48 Mont. 382, 385, 138 Pac. 257.

Instructions substantially in the words of this section and section 11863 defining a principal and telling the jury that the distinction between a principal and an accessory had been abrogated by statute, were not improper as implying that a felony had been committed. *State v. Wiley*, 53 Mont. 383, 387, 164 Pac. 84.

Cited or applied as section 41, Penal Code, in *State v. Martin*, 29 Mont. 273, 280, 74 Pac. 725; *State v. De Wolfe*, 29 Mont. 415, 423, 74 Pac. 1084.

Who is accomplice, see note in 138 A. S. R. 272.

Criminal responsibility of one co-operating in offense which he is incapable of committing personally, see notes in 16 Ann. Cas. 467; 5 A. L. R. 782.

10733. Who are accessories. All persons who, after full knowledge that a felony has been committed, conceal it from the magistrate, or harbor or protect the person charged with or convicted thereof, are accessories.

History: En. Sec. 42, Pen. C. 1895; re-en. Sec. 8120, Rev. C. 1907. See note to preceding section. Cal. Pen. C. Sec. 32.

Accessories to crime are still recognized as punishable under our law, but the accessories referred to in the statute are acces-

sories after the fact. Accessories before the fact are treated as principals. *State v. De Wolfe*, 29 Mont. 415, 423, 74 Pac. 1084.

The term "accessory," as defined by this section, refers exclusively to an accessory

after the fact. *State v. Slothower*, 56 Mont. 230, 232, 182 Pac. 270.

Accessories after the fact, see note in 80 Am. Dec. 95.

10734. Punishment of accessories. Except in cases where a different punishment is prescribed, an accessory is punishable by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding two years, or by fine not exceeding five thousand dollars.

History: En. Sec. 43, Pen. C. 1895; re-en. Sec. 8121, Rev. C. 1907. Cal. Pen. C. Sec. 33.

Cited or applied as section 43, Penal Code, in *State v. De Wolfe*, 29 Mont. 415, 424, 74 Pac. 1084.

CHAPTER 3.

TREASON AND MISPRISION OF TREASON.

Section 10735. Treason, Who Only Can Commit.

10736. Misprision of Treason.

10735. Treason, who only can commit. Treason against this state consists only in levying war against it, adhering to its enemies, or giving them aid and comfort, and can be committed only by persons owing allegiance to the state. The punishment of treason is death.

History: En. Sec. 50, Pen. C. 1895; re-en. Sec. 8122, Rev. C. 1907. Cal. Pen. C. Sec. 37.

What constitutes adherence to enemies, etc., within law of treason, see note in Ann. Cas. 1917D, 479.

10736. Misprision of treason. Misprision of treason is the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. It is punishable by imprisonment in the state prison for a term not exceeding five years.

History: En. Sec. 51, Pen. C. 1895; re-en. Sec. 8123, Rev. C. 1907. Cal. Pen. C. Sec. 38.

CHAPTER 4.

SEDITION—CRIMINAL SYNDICALISM—DISPLAY OF RED FLAG.

Section 10737. Sedition Defined.

10738. Punishment for Sedition.

10739. Emergency Clause.

10740. Criminal Syndicalism Defined.

10741. Sabotage Defined.

10742. Penalty for Sabotage, Criminal Syndicalism, and Other Offenses.

10743. Penalty for Certain Unlawful Assemblings to Advocate Forbidden Acts.

10744. Same—Penalty for Owner of Premises.

10745. Prohibition Against Exhibiting Red Flag or Emblem.

10746. Same—Penalty.

10737. Sedition defined. Any person or persons who shall utter, print, write, or publish any disloyal, profane, violent, scurrilous, contemptuous, slurring, or abusive language about the United States, the government of the United States, or the form of government of the United States, or the constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the army or navy of the United States, or any language calculated to bring the form

of government of the United States; or the constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the army or navy of the United States, into contempt, scorn, contumely, or disrepute, or shall utter, print, write, or publish any language calculated to incite or inflame resistance to any duly constituted federal or state authority, or who shall display the flag of any foreign enemy, or who shall, by utterance, writing, printing, publication, or language spoken, urge, incite, or advocate any curtailment of production in the United States of any thing or things, product or products, necessary or essential to the prosecution of any war in which the United States may be engaged, with intent by such curtailment to cripple or hinder the United States in the prosecution of any war; or who, in time of war in which the United States may be engaged, shall wilfully make or convey false reports or statements with intent to interfere with the operation or success of the military or naval forces of the United States, or promote the success of its enemy or enemies, or shall wilfully cause, or attempt to cause, disaffection in the military or naval forces of the United States, or who shall, by uttering, printing, writing, publishing, language spoken, or by any act or acts, interfere with, obstruct, or attempt to obstruct, the operation of any national selective draft law or the recruiting or the enlistment service of the United States, to the injury of the military or naval service thereof, shall be guilty of the crime of sedition.

History: En. Sec. 1, Ch. 77, L. 1919.

Note.—The above section was first enacted as section 1, chapter 11, Ex. L. 1918; commencing with the words "Whenever the United States shall be engaged in war." The act of 1919 apparently repeals by implication the earlier act.

The construction of the federal espionage act by the supreme court of the United States, though not conclusive upon the state supreme court in construing the sedition act, is entitled to great respect, the two statutes being similar in all respects. *State v. Kahn*, 56 Mont. 108, 121, 182 Pac. 107.

The act defining sedition and prescribing the punishment therefor is not unconstitutional as infringing upon the exclusive war powers of congress. *State v. Kahn*, 56 Mont. 108, 115, 182 Pac. 107; *State v. Wyman*, 56 Mont. 600, 605, 186 Pac. 1.

The failure of the legislature to make evil intent an ingredient of the offense does not invalidate this law. *State v. Kahn*, 56 Mont. 108, 118, 182 Pac. 107.

Primarily the word "calculate" means to compute mathematically, and it implies power to think, to reason, to plan. In its broader significance it means to intend, to purpose, to design; and as used in the sedition act, it is broad enough to imply an evil intent in the use of language "calculated to incite or inflame," etc. *State v. Kahn*, 56 Mont. 108, 119, 182 Pac. 107.

An information alleging that defendant, in vile and vulgar language, voiced his opinion in a saloon, that the Industrial Workers of the World, of which he was an officer, would win the case of United States v. Haywood et al., then on trial in the state of Illinois, was insufficient to charge sedition. *State v. Griffith*, 56 Mont. 241, 242, 184 Pac. 219.

An information charging sedition, in that defendant knowingly, unlawfully, etc., uttered and published disloyal, profane, violent, scurrilous, contemptuous, and abusive language concerning the soldiers and the uniform of the army of the United States, was defective for failure to set out the specific words characterizing his remarks as disloyal, contemptuous, etc. *State v. Wolf*, 56 Mont. 493, 498, 185 Pac. 556.

An information alleging in substance that defendant uttered language to the effect that the soldiers of the United States would commit the same atrocities as those reported to have been committed by German soldiers, that the soldiers of the United States were no better than German soldiers, etc., was sufficient to charge sedition. *State v. Wyman*, 56 Mont. 600, 606, 186 Pac. 1.

Where, in defining an offense, a statute enumerates a series of acts, either of which separately or all together may constitute the offense, all such acts may be charged in a single count, and an instruction of the

court, in a prosecution for a violation of the sedition act, where the information contained a charge in the language of the statute, of committing the several acts, that if the jury found beyond a reasonable doubt that defendant made either of the statements charged they could convict, was not erroneous. *State v. Wyman*, 56 Mont. 600, 610, 186 Pac. 1.

The sedition act as valid, though intent is not made an ingredient of the crime; if intent is essential to its validity, the word "calculated," as used in that part of the act which provides that one who "shall utter language calculated to incite or inflame resistance," etc., shall be guilty of sedition, etc., is sufficiently broad to cover intent. *State v. Wyman*, 56 Mont. 600, 605, 186 Pac. 1.

While intent is not specifically made an element of the crime of sedition as defined

by this section, the legislature inferentially made it such by the use of the word "calculated" when it made language "calculated to incite or influence resistance" to constituted authority a public offense. *State v. Smith*, 57 Mont. 349, 188 Pac. 644.

Information held sufficient to charge sedition in *State v. Brooks*, 57 Mont. 480, 188 Pac. 942.

The intent of the person deliberately writing or publishing a seditious article contrary to the provisions of this section is immaterial and not an ingredient of the crime of sedition. *State v. Smith*, 57 Mont. 563, 190 Pac. 107.

For authorities upon the federal espionage act, see notes in *Ann. Cas.* 1918B, 1011; *L. R. A.* 1918F, 410; *L. R. A.* 1918C, 89.

10738. Punishment for sedition. Every person found guilty of the crime of sedition shall be punished for each offense by a fine of not less than two hundred dollars nor more than twenty thousand dollars, or by imprisonment in the state prison for not less than one year nor more than twenty years, or by both such fine and imprisonment. In the event of a fine imposed for violation of any of the provisions of this act and not paid, the guilty person shall be imprisoned for a period represented by a credit of two dollars per day until the amount of the fine is fully paid.

History: En. Sec. 2, Ch. 77, L. 1919.

10739. Emergency clause. This act is hereby declared to be an emergency law and a law necessary for the immediate preservation of the public peace and safety.

History: En. Sec. 3, Ch. 77, L. 1919.

10740. Criminal syndicalism defined. Criminal syndicalism is hereby defined to be the doctrine which advocates crime, violence, force, arson, destruction of property, sabotage, or other unlawful acts or methods, or any such acts, as a means of accomplishing or effecting industrial or political ends, or as a means of effecting industrial or political revolution.

History: En. Sec. 1, Ch. 7, Ex. L. 1918. social or industrial propaganda deemed to be of a dangerous tendency, see note in 1 A. L. R. 336.

Validity of legislation directed against

10741. Sabotage defined. Sabotage is hereby defined to be malicious, felonious, intentional, or unlawful damage, injury, or destruction of real or personal property, of any form whatsoever, of any employer, or owner, by his or her employee or employees, or any employer or employers, or by any person or persons, at their own instance, or at the instance, request, or instigation of such employees, employers, or any other person.

History: En. Sec. 2, Ch. 7, Ex. L. 1918.

10742. Penalty for sabotage, criminal syndicalism, and other offenses. Any person who, by word of mouth or writing, advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism, or sabotage, or who shall advocate, suggest, or teach the duty, necessity, propriety, or expediency of doing any act of violence,

the destruction of or damage to any property, the bodily injury to any person or persons, or the commission of any crime or unlawful act, as a means of accomplishing or effecting any industrial or political ends, change, or revolution, or who prints, publishes, edits, issues, or knowingly circulates, sells, distributes, or publicly displays any books, pamphlets, paper, handbill, poster, document, or written or printed matter in any form whatsoever, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, the doing of any act of violence, the destruction of or damage to any property, the injury to any person, or the commission of any crime or unlawful act, as a means of accomplishing, effecting, or bringing about any industrial or political ends, or change, or as a means of accomplishing, effecting, or bringing about any industrial or political revolution, or who shall openly, or at all, attempt to justify, by word of mouth or writing, the commission or the attempt to commit sabotage, any act of violence, the destruction of or damage to any property, the injury of any person, or the commission of any crime or unlawful act, with the intent to exemplify, spread, or teach or suggest criminal syndicalism, or organizes, or helps to organize, or become a member of, or voluntarily assembles with, any society or assemblage of persons formed to teach or advocate, or which teaches, advocates, or suggests the doctrine of criminal syndicalism, sabotage, or the necessity, propriety, or expediency of doing any act of violence, or the commission of any crime or unlawful act, as a means of accomplishing or effecting any industrial or political ends, change, or revolution, is guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state penitentiary for a term of not less than one year or more than five years, or by a fine of not less than two hundred dollars or not more than one thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 3, Ch. 11, Ex. L. 1918.

10743. Penalty for certain unlawful assemblings to advocate forbidden acts. Wherever two or more persons assemble or consort for the purpose of advocating, teaching, or suggesting the doctrine of criminal syndicalism, as defined in this act, or to advocate, teach, suggest, or encourage sabotage, as defined in this act, or the duty, necessity, propriety, or expediency of doing any act of violence, the destruction of or damage to any property, the bodily injury to any person or persons, or the commission of any crime or unlawful act, as a means of accomplishing or effecting any industrial or political ends, change, or revolution, it is hereby declared unlawful, and every person voluntarily participating therein, by his presence aids or instigates, is guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state prison for not less than one year or more than five years, or by a fine of not less than two hundred dollars or more than one thousand dollars, or by both such imprisonment and fine.

History: En. Sec. 4, Ch. 7, Ex. L. 1918.

10744. Same—Penalty for owner of premises. The owner, lessee, agent, superintendent, or person in charge or occupation of any place, building, room or rooms, or structure, who knowingly permits therein any

assembly or consort of persons prohibited by the provisions of the preceding section, or who, after notification that the place or premises, or any part thereof, is or are so used, permits such use to be continued, is guilty of a misdemeanor, and punishable, upon conviction thereof, by imprisonment in the county jail for not less than sixty days or for not more than one year, or by a fine of not less than one hundred dollars or more than five hundred dollars, or by both such imprisonment and fine.

History: En. Sec. 5, Ch. 7, Ex. L. 1918.

10745. Prohibition against exhibiting red flag or emblem. In any public street, avenue, alley, meeting-hall, or place within the state of Montana, it shall be unlawful to carry, display, exhibit, or cause to be carried, displayed, or exhibited any red flag, red banner, or red emblem, commonly accepted as symbolic of social or industrial revolution, or any flag, banner, or emblem, bearing words, inscriptions, or representations opposed to organized government, of or within the United States; provided, that nothing herein shall be construed to deny the right of every citizen peaceably to assemble for the purpose of securing redress of grievances in the manner provided by law.

History: En. Sec. 1, Ch. 25, L. 1919. of red flag in parades, see note in Ann. Cas. 1916D, 849.

Validity of statute regulating carrying

10746. Same—Penalty. Any person violating the provisions of this act shall, upon conviction, be punishable by imprisonment in the county jail for a period not to exceed six months, or shall be fined in a sum not to exceed five hundred dollars, or shall be imprisoned in the state prison for a period of not less than one nor more than five years, or shall suffer both such fine and imprisonment.

History: En. Sec. 2, Ch. 25, L. 1919.

CHAPTER 5.

ELECTION FRAUDS AND OFFENSES.

- | | |
|---------|---|
| Section | 10747. Violation of Election Laws by Certain Officers a Felony. |
| | 10748. Fraudulent Registration a Felony. |
| | 10749. Fraudulent Voting. |
| | 10750. Attempting to Vote Without Being Qualified. |
| | 10751. Procuring Illegal Voting. |
| | 10752. Changing Ballots or Altering Returns by Election Officers. |
| | 10753. Judges Unfolding or Marking Ballots. |
| | 10754. Forging or Altering Returns. |
| | 10755. Adding to or Subtracting From Votes Given. |
| | 10756. Persons Aiding and Abetting. |
| | 10757. Intimidating, Corrupting, Deceiving, or Defrauding Electors. |
| | 10758. Offenses Under the Election Laws. |
| | 10759. Officers of Election Not to Electioneer, etc. |
| | 10760. Offenses at an Election. |
| | 10761. Furnishing Money for Electors. |
| | 10762. Unlawful Offer to Appoint to Office. |
| | 10763. Communication of Same. |
| | 10764. Bribing Members of Legislative Caucuses, etc. |
| | 10765. Preventing Public Meetings of Electors. |
| | 10766. Disturbances of Public Meetings of Electors. |
| | 10767. Betting on Elections. |
| | 10768. Violation of Election Laws. |
| | 10769. Bribery. |
| | 10770. Unlawful Acts of Employers. |
| | 10771. Fines Paid Into School Fund. |
| | 10772. Violation of Act Voids Election. |

10747. Violation of election laws by certain officers a felony. Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, or the registration of the names of electors, or the canvassing of the returns of election, who wilfully neglects or refuses to perform such duty, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment for such acts or omissions is prescribed by this code, punishable by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding five years, or both.

History: En. Sec. 60, Pen. C. 1895; re-en. Sec. 8124, Rev. C. 1907. Cal. Pen. C. Sec. 41.

of Baker, 51 Mont. 176, 181, 149 Pac. 960.

Cited or applied as section 60, Penal Code, in State ex rel, Brooks. v. Fransham, 19 Mont. 273, 290, 48 Pac. 1; Cadle v. Town

Criminal responsibility of one aiding and abetting violation of election laws, see note in 5 A. L. R. 786.

10748. Fraudulent registration a felony. Every person who wilfully causes, procures, or allows himself to be registered in the official register of any election district of any county, knowing himself not to be entitled to such registration, is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail or state prison not exceeding one year, or both. In all cases where, on the trial of the person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in such register of any county, without being qualified for such registration, the court must order such registration to be canceled.

History: En. Sec. 61, Pen. C. 1895; re-en. Sec. 8125, Rev. C. 1907. Cal. Pen. C. Sec. 42.

sibility for illegal registration or voting, see notes in 37 L. R. A. (N. S.) 1177; Ann. Cas. 1912A, 436.

Good faith as affecting criminal respon-

10749. Fraudulent voting. Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election, or changes any ballot after the same has been deposited in the ballot-box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted; or adds to, or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll-lists, check-lists, or ballots, or ballot-box, for the purpose of breaking up or invalidating such election, or wilfully detains, mutilates, or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted, is guilty of a felony.

History: En. Sec. 62, Pen. C. 1895; re-en. Sec. 8126, Rev. C. 1907. Cal. Pen. C. Sec. 45.

10750. Attempting to vote without being qualified. Every person not entitled to vote, who fraudulently attempts to vote or register, or who,

being entitled to vote, attempts to vote or register more than once at any election, is guilty of a misdemeanor.

History: En. Sec. 63, Pen. C. 1895; re-en. Sec. 8127, Rev. C. 1907. Cal. Pen. C. Sec. 46.

10751. Procuring illegal voting. Every person who procures, aids, assists, counsels, or advises another to register or give or offer his vote at any election, knowing that the person is not entitled to vote or register, is guilty of a misdemeanor.

History: En. Sec. 64, Pen. C. 1895; re-en. Sec. 8128, Rev. C. 1907. Cal. Pen. C. Sec. 47.

10752. Changing ballots or altering returns by election officers. Every officer or clerk of election who aids in changing or destroying any poll-list or check-list, or in placing any ballots in the ballot-box, or taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll-list, check-list, ballot-box, or ballots lawfully polled, is guilty of a felony.

History: En. Sec. 65, Pen. C. 1895; re-en. Sec. 8129, Rev. C. 1907. Cal. Pen. C. Sec. 48.

10753. Judges unfolding or marking ballots. Every judge or clerk of an election who, previous to putting the ballot of an elector in the ballot-box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which has been handed in, to be opened or examined previous to putting the same into the ballot-box, or who makes or places any mark or device on any folded ballot, with the view to ascertain the name of any person for whom the elector has voted, is punishable by imprisonment in the county jail for a period of six months, or in the state prison not exceeding two years, or by fine, not exceeding five hundred dollars, or by both.

History: En. Sec. 66, Pen. C. 1895; re-en. Sec. 8130, Rev. C. 1907. Cal. Pen. C. Sec. 49.

Criminal liability of election officer disclosing contents of ballot, see note in Ann. Cas. 1912C, 515.

10754. Forging or altering returns. Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or wilfully substitutes forged or counterfeit returns of election in the place of the true returns for a precinct, town, or ward where an election was actually held, is punishable by imprisonment in the state prison for a term not less than two nor more than ten years.

History: En. Sec. 67, Pen. C. 1895; re-en. Sec. 8131, Rev. C. 1907. Cal. Pen. C. Sec. 50.

10755. Adding to or subtracting from votes given. Every person who wilfully adds to or subtracts from the votes actually cast at an election,

in any returns, or who alters such returns, is punishable by imprisonment in the state prison for not less than one nor more than five years.

History: En. Sec. 68, Pen. C. 1895; re-en. Sec. 8132, Rev. C. 1907. Cal. Pen. C. Sec. 51.

10756. Persons aiding and abetting. Every person who aids or abets in the commission of any of the offenses mentioned in the four preceding sections is punishable by imprisonment in the county jail for a period of six months, or in the state prison not exceeding two years.

History: En. Sec. 69, Pen. C. 1895; re-en. Sec. 8133, Rev. C. 1907. Cal. Pen. C. Sec. 52.

10757. Intimidating, corrupting, deceiving, or defrauding electors. Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly, attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever to awe, restrain, hinder, or disturb any elector in the free exercise of the right of suffrage, or defrauds any elector at any such election, by deceiving and causing such elector to vote for a different person for any office than he intended or desired to vote for; or who, being judge or clerk of any election, while acting as such, induces, or attempts to induce, any elector, either by menaces or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor, and is punishable by a fine not exceeding one thousand dollars, or imprisonment not to exceed one year, or both.

History: En. Sec. 70, Pen. C. 1895; re-en. Sec. 8134, Rev. C. 1907. Cal. Pen. C. Sec. 53.

10758. Offenses under the election laws. Every person who falsely makes, or fraudulently defaces or destroys, the certificates of nomination of candidates for office, to be filled by the electors at any election, or any part thereof, or files or receives for filing any certificate of nomination, knowing the same, or any part thereof, to be falsely made, or suppresses any certificate of nomination, which has been duly filed, or any part thereof, or forges or falsely makes the official indorsement on any ballot, is guilty of a felony, and upon conviction thereof is punishable by imprisonment in the state prison not less than one nor more than five years.

History: En. Sec. 71, Pen. C. 1895; re-en. Sec. 8135, Rev. C. 1907.

10759. Officers of election not to electioneer, etc. Every officer or clerk of election who deposits in a ballot-box a ballot on which the official stamp, as provided by law, does not appear, or does any electioneering on election day, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment not to exceed six months, or by a fine not less than fifty nor more than five hundred dollars, or both.

History: En. Sec. 72, Pen. C. 1895; re-en. Sec. 8136, Rev. C. 1907.

10760. Offenses at an election. Every person who, during an election, removes or destroys any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling a voter to prepare his ballot, or prior to or on the day of election wilfully defaces or destroys any list of candidates posted in accordance with the provisions of law, or during an election tears down or defaces the cards printed for

the instruction of voters, or does any electioneering on election day within any polling-place or any building in which an election is being held, or within twenty-five feet thereof, or obstructs the doors or entries thereof, or removes any ballot from the polling-place before the closing of the polls, or shows his ballot to any person after it is marked so as to reveal the contents thereof, or solicits an elector to show his ballot after it is marked, or places a mark on his ballot by which it may afterward be identified, or receives a ballot from any other person than one of the judges of the election having charge of the ballots, or votes or offers to vote any ballot except such as he has received from the judges of election having charge of the ballots, or does not return the ballot before leaving the polling-place, delivered to him by such judges, and which he has not voted, is guilty of a misdemeanor, and is punishable by a fine not exceeding one hundred dollars.

History: En. Sec. 73, Pen. C. 1895; re-en. Sec. 8137, Rev. C. 1907.

10761. Furnishing money for electors. Every person who, with the intention to promote the election of himself or any other person, either:

1. Furnishes entertainments, at his expense, to any meeting of electors previous to or during an election;

2. Pays for, procures, or engages to pay for any such entertainment;

3. Furnishes or engages to pay any money or property for the purpose of procuring the attendance of voters at the polls, or for the purpose of compensating any person for procuring the attendance of voters at the polls, except for the conveyance of voters who are sick or infirm;

4. Furnishes or engages to pay or deliver any money or property for any purpose intended to promote the election of any candidate, except for the expenses of holding and conducting public meetings for the discussion of public questions, and of printing and circulating ballots, handbills, and other papers, previous to such election;

is guilty of a misdemeanor.

History: En. Sec. 74, Pen. C. 1895; re-en. Sec. 8138, Rev. C. 1907. Cal. Pen. C. Sec. 54.

10762. Unlawful offer to appoint to office. Every person who, being a candidate at any election, offers, or agrees to appoint or procure, the appointment of any particular person to office, as an inducement or consideration to any person to vote for, or to procure or aid in procuring the election of such candidate, is guilty of a misdemeanor.

History: En. Sec. 75, Pen. C. 1895; re-en. Sec. 8139, Rev. C. 1907. Cal. Pen. C. Sec. 55.

10763. Communication of same. Every person, not being a candidate, who communicates any offer, made in violation of the last section, to any person, with intent to induce him to vote for, or to procure or to aid in procuring the election of the candidate making the offer, is guilty of a misdemeanor.

History: En. Sec. 76, Pen. C. 1895; re-en. Sec. 8140, Rev. C. 1907. Cal. Pen. C. Sec. 56.

10764. Bribing members of legislative caucuses, etc. Every person who gives or offers a bribe to any officer or member of any legislative caucus, political convention, or political gathering of any kind, held for

the purpose of nominating candidates for offices of honor, trust, or profit, in this state, with intent to influence the person to whom such bribe is given or offered to be more favorable to one candidate than another, and every person, member of either of the bodies in this section mentioned, who receives or offers to receive any such bribe, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

History: En. Sec. 77, Pen. C. 1895; re-en. Sec. 8141, Rev. C. 1907. Cal. Pen. C. Sec. 57.

10765. Preventing public meetings of electors. Every person who, by threats, intimidations, or violence, wilfully hinders or prevents electors from assembling in public meeting for the consideration of public questions, is guilty of a misdemeanor.

History: En. Sec. 78, Pen. C. 1895; re-en. Sec. 8142, Rev. C. 1907. Cal. Pen. C. Sec. 58.

10766. Disturbances of public meetings of electors. Every person who wilfully disturbs or breaks up any public meeting of electors or others, lawfully being held for the purpose of considering public questions, or any public school or public school meeting, is guilty of a misdemeanor.

History: En. Sec. 79, Pen. C. 1895; re-en. Sec. 8143, Rev. C. 1907.

10767. Betting on elections. Every person who makes, offers, or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a misdemeanor.

History: En. Sec. 80, Pen. C. 1895; re-en. Sec. 8144, Rev. C. 1907. Cal. Pen. C. Sec. 60.

Wagers dependent on the result of elections, see notes in 4 Am. Dec. 299; 14 Am. Dec. 399.

10768. Violation of election laws. Every person who wilfully violates any of the provisions of the laws of this state relating to elections is, unless a different punishment for such violation is prescribed by this code, punishable by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding five years, or both.

History: En. Sec. 81, Pen. C. 1895; re-en. Sec. 8145, Rev. C. 1907. Cal. Pen. C. Sec. 61.

10769. Bribery. The following persons shall be deemed guilty of bribery, and shall be punished by a fine not exceeding one thousand dollars, and imprisonment in the penitentiary not exceeding one year:

1. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers or promises, any money or valuable consideration, or promise to procure, or endeavors to procure, any money or valuable consideration, to or for any election, or to or for any person on behalf of any elector, or to or for any person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid;

2. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, or procures, or agrees to give or procure, or offers or promises, any office, place, or employment, to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid,

on account of any elector having voted or refrained from voting at any election;

3. Every person who, directly or indirectly, by himself or by any other persons on his behalf, makes any gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavor to procure the return of any person to serve in the legislative assembly, or the vote of any elector at any election;

4. Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or promises, or endeavors to procure, the election of any candidate to the legislative assembly, or the vote of any elector at any election;

5. Every person who advances or pays, or causes to be paid, any money to, or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery, or in corrupt practices, at any election, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any election;

6. Every elector who, before or during any election, directly or indirectly, by himself or any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for refusing or agreeing to refrain from voting at any election;

7. Every person who, after any election, directly or indirectly, by himself or by any other person in his behalf, receives any money, gift, loan, valuable consideration, office, place, or employment, for having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any election;

8. Every person, whether an elector or otherwise, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, makes approaches to any candidate or agent, or any person representing or acting on behalf of any candidate at such election, and asks for, or offers to agree or contract for, any money, gift, loan, valuable consideration, office, place, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at such election;

9. Every person, whether an elector or otherwise, who, after an election, directly or indirectly, by himself or by any other person on his behalf, makes approaches to any candidate, or any agent or person representing or acting on behalf of any candidate, and asks for or offers to receive any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person, for having voted or refrained from voting, or having induced any other person to vote or refrain from voting at such election;

10. Every person who, in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has so become, gives or lends any money or valuable consideration whatever, or agrees to give or lend, or offers or promises any such money or valuable consideration, or promises to procure or try to

procure, or tries to procure, for such person, or for any other person, any money or valuable consideration;

11. Every person who, for the purpose and with the intent in the last preceding subsection mentioned, gives or procures any office, place, or employment, or agrees to give or procure, or offers or promises, such office, place, or employment, or endeavors to procure, or promises to procure or to endeavor to procure, such office, place, or employment, to or for such person or any other person;

12. Every person who, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in the two last preceding subsections, allows himself to be nominated, or refuses to allow himself to be nominated, as a candidate at an election, or withdraws if he has been so nominated;

13. Every elector, candidate for nomination, nominee, or political committee who shall pay, or offer to pay, the fee for any person who is about to, or has made his declaration of intention, or has taken out, or is about to take out, his final papers as a citizen of the United States; and every person who receives any money or other valuable thing to pay such fee, or permits the same to be paid for him.

History: En. Sec. 105, Pen. C. 1895; re-en. Sec. 8169, Rev. C. 1907. Cal. Pen. C. Sec. 54b.

Cited or applied as section 8169, Revised Codes, in *Cadle v. Town of Baker*, 51 Mont. 176, 181, 149 Pac. 960.

Promise of candidate to do certain things after election as constituting bribery of electors, see notes in 11 Ann. Cas. 566; Ann. Cas. 1918A, 888.

10770. Unlawful acts of employers. It shall be unlawful for any employer, in paying his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate or political mottoes, devices, or arguments containing threats or promise, express or implied, calculated or intended to influence the political opinions or actions of such employees. Nor shall it be lawful for an employer, within ninety days of an election, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any hand-bill or placard containing any threat or promise, notice, or information, that in case any particular ticket or political party, or organization, or candidate, shall be elected, work in his place or establishment will cease, in whole or in part, or shall be continued or increased, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced or increased, or other threats, or promises, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section shall apply to corporations as well as individuals, and any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, and imprisonment not exceeding six months in the county jail, and any corporation violating this section shall be punished by fine not to exceed five thousand dollars, or forfeit its charter, or both such fine and forfeiture.

History: En. Sec. 109, Pen. C. 1895; re-en. Sec. 8173, Rev. C. 1907.

Cited or applied as section 8173, Revised Codes, in *Cadle v. Town of Baker*, 51 Mont. 176, 181, 149 Pac. 960.

10771. Fines paid into school fund. All fines imposed and collected under the preceding sections shall be paid into the county treasury for the benefit of the common schools of the county in which the offense was committed.

History: En. Sec. 110, Pen. C. 1895; were sections 8169 and 8173 of the Revised re-en. Sec. 8174, Rev. C. 1907. Codes of 1907 (sections 10769 and 10770 of this code).

Note.—The sections referred to herein

10772. Violation of act voids election. If it be proved before any court for the trial of election contests or petitions that any corrupt practice has been committed, by or with the actual knowledge and consent of any candidate at an election, if he has been elected, such election shall be void, and shall be so adjudged.

History: En. Sec. 111, Pen. C. 1895; re-en. Sec. 8175, Rev. C. 1907.

Cited or applied as section 111, Penal Code, in State ex rel. Brooks v. Fransham, 19 Mont. 273, 290, 48 Pac. 1; as section 8175, Revised Codes, in Cadle v. Town of Baker, 51 Mont. 176, 181, 149 Pac. 960.

Note.—The corrupt practices referred to in this section were those specified in sections 8169 and 8173 of the Revised Codes of 1907 (sections 10769 and 10770 of this code).

CHAPTER 6.

OFFENSES BY AND AGAINST CANDIDATES FOR NOMINATION AND ELECTION—CONTESTS. (CORRUPT PRACTICES ACT.)

- Section 10773. Expenditure by or for Candidate for Office.
 10774. Limitation of Expenditures by Candidate—By Party Organizations—By Relatives.
 10775. Definition of Terms.
 10776. Statement by Candidate as to Moneys Expended—Filing After Election—Penalty.
 10777. Accounts of Expenditures by Political Committees and Other Persons—Statement and Vouchers.
 10778. Copies of Act to Be Furnished Certain Public Officers and Candidates.
 10779. Inspection of Accounts—Complaints—Statement of Receipts.
 10780. Prosecutions for Failure to File Statement.
 10781. Jurisdiction—Court May Compel Filing of Statements.
 10782. Record of Statements—Copies—Publication.
 10783. Payments in Name of Undisclosed Principal.
 10784. Promise to Procure Appointment or Election.
 10785. Public Officer or Employee Not to Contribute Funds.
 10786. Certain Public Officers Prohibited from Acting as Delegates or Members of Political Committee.
 10787. Transfer of Convention Credential.
 10788. Inducing Person to Be or Not to Be Candidate.
 10789. What Demands or Requests Shall Not Be Made of Candidates.
 10790. Contributions From Corporations, Public Utilities, and Others.
 10791. Treating.
 10792. Challenging Voters—Procedure.
 10793. Coercion or Undue Influence of Voters.
 10794. Bets or Wagers on Election Results.
 10795. Personating Another Elector—Penalty.
 10796. Corrupt Practice, What Constitutes.
 10797. Compensating Voter for Loss of Time—Badges and Insignia.
 10798. Publications in Newspapers and Periodicals.
 10799. Solicitation of Votes on Election Day.
 10800. Political Criminal Libel.
 10801. Filing of Statement of Expenses by Candidate.
 10802. Inducement to Accept or Decline Nomination.
 10803. Forfeiture of Nomination or Office for Violation of Law, When Not Worked.

- 10804. Punishment for Violation of Act.
- 10805. Time for Commencing Contest.
- 10806. Court Having Jurisdiction of Proceedings.
- 10807. Disqualification of Person Convicted to Hold Office.
- 10808. Duty of County Attorney on Violation of Act—Penalty for Neglect or Refusal to Act.
- 10809. Declaration of Result of Election After Rejection of Illegal Votes.
- 10810. Grounds for Contest of Nomination or Office.
- 10811. Nomination or Election Not to Be Vacated, When.
- 10812. Reception of Illegal Votes, Allegations and Evidence.
- 10813. Contents of Contest Petition—Amendment—Bond—Costs—Citation—Precedence.
- 10814. Hearing of Contest.
- 10815. Corporations—Proceedings Against, for Violation of Act.
- 10816. Penalty for Violations Not Otherwise Provided For.
- 10817. Advancement of Cases—Dismissal, When—Privileges of Witnesses.
- 10818. Form of Complaint.
- 10819. Form of Statement of Expenses.
- 10820. False Oaths or Affidavits—Perjury.

10773. Expenditure by or for candidate for office. No sums of money shall be paid, and no expenses authorized or incurred, by or on behalf of any candidate to be paid by him, except such as he may pay to the state for printing, as herein provided, in his campaign for nomination to any public office or position in this state, in excess of fifteen per cent. of one year's compensation or salary of the office for which he is a candidate; provided, that no candidate shall be restricted to less than one hundred dollars in his campaign for such nomination. No sums of money shall be paid, and no expenses authorized or incurred, contrary to the provisions of this act, for or on behalf of any candidate for nomination. For the purposes of this law, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, wife, partner, employer, employee, or fellow official or fellow employee of a corporation shall be deemed to be that of the candidate himself.

History: En. Sec. 1, Init. Act, Nov. 1912.

Note.—Sections 10773 to 10820 are sections of an act initiated and passed by the people at the general election of November, 1912. Effective by governor's proclamation, December 13, 1912.

While the corrupt practices act is in force by virtue of a vote of the people, it has no greater efficacy as a statute than if it had been enacted by the legislature. State ex rel. Smith v. District Court, 50 Mont. 134, 138, 145 Pac. 721.

Since this act does not authorize a contest of the election for the location of a county seat, a demurrer to the petition seeking to initiate such a proceeding was properly sustained. Cadle v. Town of Baker, 51 Mont. 176, 181, 149 Pac. 960. See, also, Poe v. Sheridan County, 52 Mont. 279, 290, 157 Pac. 185.

Validity and construction of statute regulating contributions for election expenses by persons other than candidates, see note in Ann. Cas. 1918E, 173.

10774. Limitation of expenditures by candidate—By party organizations—By relatives. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state, except such as he may contribute towards payment for his political party's or independent statement in the pamphlet herein provided for, to be paid by him in his campaign for election, in excess of ten per cent. of one year's salary or compensation of the office for which he is nominated; provided, that no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any political party or organization to promote the

success of the principles or candidates of such party or organization, contrary to the provisions of this act. For the purposes of this act, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, wife, partner, employer, employee, or fellow official or fellow employee of a corporation, shall be deemed to be that of the candidate himself.

History: En. Sec. 8, Init. Act, Nov. 1912. as violating constitutional liberty, see note in Ann. Cas. 1915B, 1186.
Statute limiting campaign expenditures

10775. Definition of terms. Terms used in this act shall be construed as follows, unless other meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intent of the law:

“Persons” shall apply to any individual, male or female, and, where consistent with collective capacity, to any committee, firm, partnership, club, organization, association, corporation, or other combination of individuals.

“Candidate” shall apply to any person whose name is printed on an official ballot for public office, or whose name is expected to be or has been presented for public office, with his consent, for nomination or election.

“Political agent” shall apply to any person who, upon request or under agreement, receives or disburses money in behalf of a candidate.

“Political committee” shall apply to every combination of two or more persons who shall aid or promote the success or defeat of a candidate, or a political party or principle, and the provisions of law relating thereto shall apply to any firm or partnership, to any corporation, and to any club, organization, association, or other combination of persons, whether incorporated or not, with similar purposes, whether primary or incidental.

“Public office” shall apply to any national, state, county, or city office to which a salary attaches and which is filled by the voters, as well as to the office of presidential elector, United States senator, or presiding officer of either branch of the legislature.

“Give,” “provide,” “expend,” “contribute,” “receive,” “ask,” “solicit,” and like terms, with their corresponding nouns, shall apply to money, its equivalent, or any other valuable thing; shall include the promise, advance deposit, borrowing, or loan thereof, and shall cover all or any part of a transaction, whether it be made directly or indirectly.

None of the provisions of this act shall be construed as relating to the rendering of services by speakers, writers, publishers, or others, for which no compensation is asked or given; nor to prohibit expenditure by committees of political parties or organizations for public speakers, music, halls, lights, literature, advertising, office rent, printing, postage, clerk hire, challengers or watchers at the polls, traveling expenses, telegraphing or telephoning, or making of poll-lists.

History: En. Sec. 10, Init. Act, Nov. 1912. 1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 182, 149 Pac. 960.
Cited or applied as section 10, Laws of

10776. Statement by candidate as to moneys expended—Filing after election—Penalty. Every candidate for nomination or election to public office, including candidates for the office of senator of the United States, shall, within fifteen days after the election at which he was a candidate,

file with the secretary of state if a candidate for senator of the United States, representative in congress, or for any state or district office in a district composed of one or more counties, or for members of the legislative assembly from a district composed of more than one county, but with the county clerk for legislative districts composed of not more than one county, and for county and precinct offices, and with the city clerk, auditor, or recorder of the town or city in which he resides, if he was a candidate for a town, city, or ward office, an itemized sworn statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character, and all liabilities remaining uncanceled and in force at the time such statement is made, whether such expenditures, promises, and liabilities were made or incurred before, during, or after such election. If no money or other valuable thing was given, paid, expended, contributed, or promised, and no unfulfilled liabilities were incurred by a candidate for public office to aid or promote his nomination or election, or the election of his party candidates, he shall file a statement to that effect within fifteen days after the election at which he was a candidate. Any candidate who shall fail to file such a statement shall be fined twenty-five dollars for every day on which he was in default, unless he shall be excused by the court. Fifteen days after any such election the secretary of state, or county clerk, city clerk, auditor, or recorder, as the case may be, shall notify the county attorney of any failure to file such a statement on the part of any candidate, and within ten days thereafter such prosecuting officer shall proceed to prosecute said candidate for such offense.

History: En. Sec. 11, Init. Act, Nov. 1912.

Validity and construction of statute requiring filing of statement of election expenses of candidate at primary or other election, see note in Ann. Cas. 1915A, 366.

10777. Accounts of expenditures by political committees and other persons—Statement and vouchers. Every political committee shall have a treasurer, who is a voter, and shall cause him to keep detailed accounts of all its receipts, payments, and liabilities. Similar accounts shall be kept by every person, who in the aggregate receives or expends money or incurs liabilities to the amount of more than fifty dollars for political purposes, and by every political agent and candidate. Such accounts shall cover all transactions in any way affecting or connected with the political canvass, campaign, nomination, or election concerned. Every person receiving or expending money or incurring liability by authority or in behalf of or to promote the success or defeat of such committee, agent, candidate, or other person or political party or organization, shall, on demand, and in any event within fourteen days after such receipt, expenditure, or inurrence of liability, give such treasurer, agent, candidate, or other person on whose behalf such expense or liability was incurred detailed account thereof, with proper vouchers. Every payment, except payments less in the aggregate than five dollars to any person, shall be vouched for by a receipted bill stating the particulars of expense. Every voucher, receipt, and account hereby required shall be a part of the accounts and files of such treasurer, agent, candidate, or other person,

and shall be preserved by the public officer with whom it shall be filed for six months after the election to which it refers. Any person not a candidate for any office or nomination who expends money or value to an amount greater than fifty dollars in any campaign for nomination or election, to aid in the election or defeat of any candidate or candidates, or party ticket, or measure before the people, shall, within ten days after the election in which said money or value was expended, file with the secretary of state in the case of a measure voted upon by the people, or of state or district offices for districts composed of one or more counties, or with the county clerk for county offices, and with the city clerk, auditor, or recorder for municipal offices, an itemized statement of such receipts and expenditures and vouchers for every sum paid in excess of five dollars, and shall at the same time deliver to the candidate or treasurer of the political organization whose success or defeat he has sought to promote, a duplicate of such statement and a copy of such vouchers. The books of account of every treasurer of any political party, committee, or organization, during an election campaign, shall be open at all reasonable office hours to the inspection of the treasurer and chairman of any opposing political party or organization for the same electoral district; and his right of inspection may be enforced by writ of mandamus by any court of competent jurisdiction.

History: En. Sec. 12, Init. Act, Nov. 1912.

10778. Copies of act to be furnished certain public officers and candidates. The secretary of state shall, at the expense of the state, furnish to the county clerk, and to the city and town clerks, auditors, and recorders, copies of this act as a part of the election laws. In the filing of a nomination petition or certificate of nomination, the secretary of state, in the case of state and district offices for districts composed of one or more counties, and county clerks for county offices, and the city and town clerks, auditors, or recorders for municipal offices, shall transmit to the several candidates, and to the treasurers of political committees, and to political agents, as far as they may be known to such officer, copies of this act, and also to any other person required to file a statement such copies shall be furnished upon application therefor. Upon his own information, or at the written request of any voter, said secretary of state shall transmit to any other person believed by him or averred to be a candidate, or who may otherwise be required to make a statement, a copy of this act.

History: En. Sec. 13, Init. Act, Nov. 1912.

10779. Inspection of accounts — Complaints — Statement of receipts. The several officers with whom statements are required to be filed shall inspect all statements of accounts and expenses relating to nominations and elections filed with them within ten days after the same are filed; and if, upon examination of the official ballot, it appears that any person has failed to file a statement as required by law, or if it appears to any such officer that the statement filed with him does not conform to law, or upon complaint in writing by a candidate or by a voter that a statement filed does not conform to law or to the truth, or that any person has failed to file a statement which he is by law required to file, said

officer shall forthwith in writing notify the delinquent person. Every such complaint filed by a citizen or candidate shall state in detail the grounds of objection, shall be sworn to by the complainant, and shall be filed with the officer within sixty days after the filing of the statement or amended statement. Upon the written request of a candidate or any voter, filed within sixteen days after any convention, primary, or nominating election, said secretary of state, county clerk, city or town clerk, auditor, or recorder, as the case may be, shall demand from any specified person or candidate a statement of all his receipts, and from whom received, disbursements and liabilities in connection with or in any way relating to the nomination or election concerned, whether it is an office to which a salary or compensation is attached or not, and said person shall thereupon be required to file such statement and to comply with all the provisions relating to statements herein contained. Whoever makes a statement required by this act shall make oath attached thereto that it is in all respects correct, complete, and true, to the best of his knowledge and belief, and said verification shall be substantially the form herein provided.

History: En. Sec. 14, Init. Act, Nov. 1912.

10780. Prosecutions for failure to file statement. Upon the failure of any person to file a statement within ten days after receiving notice, under the preceding section, or if any statement filed as above discloses any violation of any provision of this act relating to corrupt practices in elections, or in any other provision of the election laws, the secretary of state, the county clerk, or the city clerk, auditor, or recorder, as the case may be, shall forthwith notify the county attorney of the county where said violation occurred, and shall furnish him with copies of all papers relating thereto, and said county attorney shall, within sixty days thereafter, examine every such case, and if the evidence seems to him to be sufficient under the provisions of this act, he shall, in the name of the state, forthwith institute such civil or criminal proceedings as may be appropriate to the facts.

History: En. Sec. 15, Init. Act, Nov. 1912.

10781. Jurisdiction—Court may compel filing of statements. The district court of the county in which any statement of accounts and expenses relating to nominations and elections should be filed, unless herein otherwise provided, shall have exclusive original jurisdiction of all violations of this act, and may compel any person who fails to file such a statement as required by this act, or who files a statement which does not conform to the provisions of this act in respect to its truth, sufficiency in detail, or otherwise, to file a sufficient statement, upon the application of the attorney-general or of the county attorney, or the petition of a candidate or of any voter. Such petition shall be filed in the district court within sixty days after such election if the statement was filed within the fifteen days required, but such a petition may be filed within thirty days after any payment not included in the statement so filed.

History: En. Sec. 16, Init. Act, Nov. 1912.

10782. Record of statements—Copies—Publication. All statements shall be preserved for six months after the election to which they relate, shall be

public records subject to public inspection, and it shall be the duty of the officers having custody of the same to give certified copies thereof in like manner as of other public records. The totals of each statement, filed with him, with the name of the person or candidate filing it, shall be published in the next annual report of the secretary of state, the county clerk, or the city clerk, auditor, or recorder, as the case may be.

History: En. Sec. 17, Init. Act, Nov. 1912.

10783. Payments in name of undisclosed principal. No person shall make a payment of his own money or of another person's money to any other person in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any person knowingly receive such payment, or enter, or cause the same to be entered, in his accounts or records in another name than that of the person by whom it was actually furnished; provided, if the money be received from the treasurer of any political organization, it shall be sufficient to enter the same as received from said treasurer.

History: En. Sec. 18, Init. Act, Nov. 1912.

10784. Promise to procure appointment or election. No person shall, in order to aid or promote his nomination or election, directly or indirectly, himself or through any other person, promise to appoint another person, or promise to secure or aid in securing the appointment, nomination, or election of another person to any public or private position or employment, or to any position of honor, trust, or emolument, except that he may publicly announce or define what is his choice or purpose in relation to any election in which he may be called to take part, if elected, and if he is a candidate for nomination or election as a member of the legislative assembly, he may pledge himself to vote for the people's choice for United States senator, or state what his action will be on such vote.

History: En. Sec. 19, Init. Act, Nov. 1912.

10785. Public officer or employee not to contribute funds. No holder of a public position or office, other than an office filled by the voters, shall pay or contribute to aid or promote the nomination or election of any other person to public office. No person shall invite, demand, or accept payment or contribution from such holder of a public position or office for campaign purposes.

History: En. Sec. 20, Init. Act, Nov. 1912.

10786. Certain public officers prohibited from acting as delegates or members of political committee. No holder of a public position, other than an office filled by the voters, shall be a delegate to a convention for the election district that elects the officer or board under whom he directly or indirectly holds such position, nor shall he be a member of a political committee for such district.

History: En. Sec. 21, Init. Act, Nov. 1912.

10787. Transfer of convention credential. No person shall invite, offer, or effect the transfer of any convention credential in return for any payment of money or other valuable thing.

History: En. Sec. 22, Init. Act, Nov. 1912.

10788. Inducing person to be or not to be candidate. No person shall pay, or promise to reward another, in any manner or form, for the purpose of inducing him to be or refrain from or cease being a candidate, and no person shall solicit any payment, promise, or reward from another for such purpose.

History: En. Sec. 23, Init. Act, Nov. 1912.

10789. What demands or requests shall not be made of candidates. No person shall demand, solicit, ask, or invite any payment or contribution for any religious, political, charitable, or other cause or organization supposed to be primarily or principally for the public good, from a person who seeks to be or has been nominated or elected to any office; and no such candidate or elected person shall make any such payment or contribution if it shall be demanded or asked during the time he is a candidate for nomination or election to or an incumbent of any office. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot or nomination paper or petition, or to the performance of any duty imposed by law on a political committee. No person shall demand, solicit, ask, or invite any candidate to subscribe to the support of any club or organization, to buy tickets to any entertainment or ball, or to subscribe for or pay for space in any book, program, periodical, or other publication; if any candidate shall make any such payment or contribution with apparent hope or intent to influence the result of the election, he shall be guilty of a corrupt practice; but this section shall not apply to the soliciting of any business advertisement for insertion in a periodical in which such candidate was regularly advertising prior to his candidacy, nor to ordinary business advertising, nor to his regular payment to any organization, religious, charitable, or otherwise, of which he may have been a member, or to which he may have been a contributor, for more than six months before his candidacy, nor to ordinary contributions at church services.

History: En. Sec. 24, Init. Act, Nov. 1912.

10790. Contributions from corporations, public utilities, and others. No corporation, and no person, trustee, or trustees owning or holding the majority of the stock of a corporation carrying on the business of a bank, savings bank, co-operative bank, trust, trustee, surety, indemnity, safe deposit, insurance, railroad, street-railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, water, cemetery, or crematory company, or any company having the right to take or condemn land, or to exercise franchises in public ways granted by the state or by any county, city, or town, shall pay or contribute in order to aid, promote, or prevent the nomination or election of any person, or in order to aid or promote the interests, success, or defeat of any political party or organization. No person shall solicit or receive such payment or contribution from such corporation or such holders of a majority of such stock.

History: En. Sec. 25, Init. Act, Nov. 1912.

10791. Treating. Any person or candidate who shall, either by himself or by any other person, either before or after an election, or while such person or candidate is seeking a nomination or election, directly or

indirectly, give or provide, or pay, wholly or in part, the expenses of giving or providing any meat or drink, or other entertainment or provision, clothing, liquors, cigars, or tobacco, to or for any person for the purpose of or with intent or hope to influence that person, or any other person, to give or refrain from giving his vote at such election to or for any candidate or political party ticket, or measure before the people, or on account of such persons, or any other person, having voted or refrained from voting for any candidate or the candidates of any political party or organization or measure before the people, or being about to vote or refrain from voting at such election, shall be guilty of treating. Every elector who accepts or takes any such meat, drink, entertainment, provision, clothing, liquors, cigars, or tobacco, shall also be guilty of treating; and such acceptance shall be a ground of challenge to his vote and of rejecting his vote on a contest.

History: En. Sec. 26, Init. Act, Nov. 1912.

10792. Challenging voters—Procedure. Whenever any person's right to vote shall be challenged, and he has taken the oath prescribed by the statutes, and if it is at a nominating election, then it shall be the duty of the clerks of election to write in the poll-books at the end of such person's name the words "challenged and sworn," with the name of the challenger. Thereupon the chairman of the board of judges shall write upon the back of the ballot offered by such challenged voter the number of his ballot, in order that the same may be identified in any future contest of the results of the election, and be cast out if it shall appear to the court to have been for any reason wrongfully or illegally voted for any candidate or on any question. And such marking of the name of such challenged voter, nor the testimony of any judge or clerk of election in reference thereto, or in reference to the manner in which said challenged person voted, if said testimony shall be given in the course of any contest, investigation, or trial wherein the legality of the vote of such person is questioned for any reason, shall not be deemed a violation of section 10753 of this code.

History: En. Sec. 27, Init. Act, Nov. 1912.

10793. Coercion or undue influence of voters. Every person who shall, directly or indirectly, by himself or any other person in his behalf, make use of or threaten to make use of any force, coercion, violence, restraint, or undue influence, or inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting for any candidate, or the ticket of any political party, or any measure before the people, or any person who, being a minister, preacher, or priest, or any officer of any church, religious or other corporation or organization, otherwise than by public speech or print, shall urge, persuade, or command any voter to vote or refrain from voting for or against any candidate or political party ticket or measure submitted to the people, for or on account of his religious duty, or the interest of any corporation, church, or other organization, or who shall, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election, or shall thereby compel, induce, or prevail upon any elector to give or to refrain from giving his

vote at any election, shall be guilty of undue influence, and shall be punished as for a corrupt practice.

History: En. Sec. 28, Init. Act, Nov. 1912.

10794. Bets or wagers on election results. Any candidate who, before or during any election campaign, makes any bet or wager of anything of pecuniary value, or in any manner becomes a party to any such bet or wager on the result of the election in his electoral district, or in any part thereof, or on any event or contingency relating to any pending election, or who provides money or other valuables to be used by any person in betting or wagering upon the results of any impending election, shall be guilty of a corrupt practice. Any person who, for the purpose of influencing the result of any election, makes any bet or wager of anything of pecuniary value on the result of such election in his electoral district, or any part thereof, or of any pending election, or on any event or contingency relating thereto, shall be guilty of a corrupt practice, and in addition thereto any such act shall be ground of challenge against his right to vote.

History: En. Sec. 29, Init. Act, Nov. 1912.

10795. Personating another elector—Penalty. Any person shall be deemed guilty of the offense of personation who, at any election, applies for a ballot in the name of some other person, whether it be that of a person living or dead, or of a fictitious person, or who, having voted once at an election, applies at the same election for a ballot in his own name; and on conviction thereof such person shall be punished by imprisonment in the penitentiary at hard labor for not less than one nor more than three years.

History: En. Sec. 30, Init. Act, Nov. 1912.

10796. Corrupt practice, what constitutes. Any person shall be guilty of a corrupt practice, within the meaning of this act, if he expends any money for election purposes contrary to the provisions of any statute of this state, or if he is guilty of treating, undue influence, personation, the giving or promising to give, or offer of any money or valuable thing to any elector, with intent to induce such elector to vote for or to refrain from voting for any candidate for public office, or the ticket of any political party or organization, or any measure submitted to the people, at any election, or to register or refrain from registering as a voter at any state, district, county, city, town, village, or school district election for public offices or on public measures. Such corrupt practice shall be deemed to be prevalent when instances thereof occur in different election districts similar in character and sufficient in number to convince the court before which any case involving the same may be tried that they were general and common, or were pursuant to a general scheme or plan.

History: En. Sec. 31, Init. Act, Nov. 1912. *See as violation of corrupt practices or similar act, see note in 2 A. L. R. 402.*

Treating of voters by candidates for of-

10797. Compensating voter for loss of time—Badges and insignia. It shall be unlawful for any person to pay another for any loss or damage due to attendance at the polls, or in registering, or for the expense of

transportation to or from the polls. No person shall pay for personal service to be performed on the day of a caucus, primary, convention, or any election, for any purpose connected therewith, tending in any way, directly or indirectly, to affect the result thereof, except for the hiring of persons whose sole duty is to act as challengers and watch the count of official ballots. No person shall buy, sell, give, or provide any political badge, button, or other insignia to be worn at or about the polls on the day of any election, and no such political badge, button, or other insignia shall be worn at or about the polls on any election day.

History: En. Sec. 32, Init. Act, Nov. 1912.

10798. Publications in newspapers and periodicals. No publisher of a newspaper or other periodical shall insert, either in its advertising or reading columns, any paid matter which is designed or tends to aid, injure, or defeat any candidate or any political party or organization, or measure before the people, unless it is stated therein that it is a paid advertisement, the name of the chairman or secretary, or the names of the other officers of the political or other organization inserting the same, or the name of some voter who is responsible therefor, with his residence and the street number thereof, if any, appear in such advertisement in the nature of a signature. No person shall pay the owner, editor, publisher, or agent of any newspaper or other periodical to induce him to editorially advocate or oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent shall accept such payment. Any person who shall violate any of the provisions of this section shall be punished as for a corrupt practice.

History: En. Sec. 33, Init. Act, Nov. 1912.

10799. Solicitation of votes on election day. It shall be unlawful for any person at any place on the day of any election to ask, solicit, or in any manner try to induce or persuade any voter on such election day to vote for or refrain from voting for any candidate, or the candidates or ticket of any political party or organization, or any measure submitted to the people, and upon conviction thereof he shall be punished by fine of not less than five dollars nor more than one hundred dollars for the first offense, and for the second and each subsequent offense occurring on the same or different election days, he shall be punished by fine as aforesaid, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment.

History: En. Sec. 34, Init. Act, Nov. 1912.

10800. Political criminal libel. It shall be unlawful to write, print, or circulate through the mails or otherwise any letter, circular, bill, placard, or poster relating to any election or to any candidate at any election, unless the same shall bear on its face the name and address of the author, and of the printer and publisher thereof; and any person writing, printing, publishing, circulating, posting, or causing to be written, printed, circulated, posted, or published any such letter, bill, placard, circular, or poster as aforesaid, which fails to bear on its face the name and address of the author and of the printer or publisher, shall be guilty of an illegal practice, and shall on conviction thereof be punished by a

fine of not less than ten dollars nor more than one thousand dollars. If any letter, circular, poster, bill, publication, or placard shall contain any false statement or charges reflecting on any candidate's character, morality, or integrity, the author thereof, and every person printing or knowingly assisting in the circulation, shall be guilty of political criminal libel, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one nor more than three years. If the person charged with such crime shall prove on his trial that he had reasonable ground to believe such charge was true, and did believe it was true, and that he was not actuated by malice in making such publication, it shall be a sufficient defense to such charge. But in that event, and as a part of such defense, the author and the printer or publisher or other person charged with such crime shall also prove that, at least fifteen days before such letter, circular, poster, bill, or placard containing such false statement or statements was printed or circulated, he or they caused to be served personally and in person upon the candidate to whom it relates a copy thereof in writing, and calling his attention particularly to the charges contained therein, and that, before printing, publishing, or circulating such charges, he received and read any denial, defense, or explanation, if any, made or offered to him in writing by the accused candidate within ten days after the service of such charge upon the accused person.

History: En. Sec. 35, Init. Act, Nov. 1912.

10801. Filing of statement of expenses by candidate. The name of a candidate chosen at a primary nominating election, or otherwise, shall not be printed on the official ballot for the ensuing election, unless there has been filed by or on behalf of said candidate the statements of accounts and expenses relating to nominations required by this act, as well as a statement by his political agent and by his political committee or committees in his behalf, if his statement discloses the existence of such agent, committee, or committees. The officer or board entrusted by law with the preparation of the official ballots for any election shall, as far as practicable, warn candidates of the danger of the omission of their names by reason of this provision, but delay in making any such statement beyond the time prescribed shall not preclude its acceptance or prevent the insertion of the name on the ballot, if there is reasonable time therefor after the receipt of such statements. Any such vacancy on the ballot shall be filled by the proper committee of his political party in the manner authorized by law, but not by the use of the name of the candidate who failed to file such statements. No person shall receive a certificate of election until he shall have filed the statements required by this act.

History: En. Sec. 36, Init. Act, Nov. 1912.

10802. Inducement to accept or decline nomination. It shall be unlawful for any person to accept, receive, or pay money or any valuable consideration for becoming or for refraining from becoming a candidate for nomination or election, or by himself or in combination with any other person or persons to become a candidate for the purpose of defeating the nomination or election of any other person, and not with a bona fide intent to obtain the office. Upon complaint made to any district court, if the judge shall be convinced that any person has sought the nomination,

or seeks to have his name presented to the voters as a candidate for nomination by any political party, for any mercenary or venal consideration or motive, and that his candidacy for the nomination is not in good faith, the judge shall forthwith issue his writ of injunction restraining the officer or officers whose duty it is to prepare the official ballots for such nominating election from placing the name of such person thereon as a candidate for nomination to any office. In addition thereto, the court shall direct the county attorney to institute criminal proceedings against such person or persons for corrupt practice, and upon conviction thereof he and any person or persons combining with him shall be punished by a fine of not more than one thousand dollars, or imprisonment in the county jail for not more than one year.

History: En. Sec. 37, Init. Act, Nov. 1912.

1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 181, 149 Pac. 960.

Cited or applied as section 37, Laws of

10803. Forfeiture of nomination or office for violation of law, when not worked. Where, upon the trial of any action or proceeding under the provisions of this act for the contest of the right of any person declared nominated or elected to any office, or to annul or set aside such nomination or election, or to remove a person from his office, it appears from the evidence that the offense complained of was not committed by the candidate, or with his knowledge or consent, or was committed without his sanction or connivance, and that all reasonable means for preventing the commission of such offense at such election were taken by and on behalf of the candidate, or that the offense or offenses complained of were trivial, unimportant, and limited in character, and that in all other respects his participation in the election was free from such offenses or illegal acts, or that any act or omission of the candidate arose from inadvertence or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and under the circumstances it seems to the court to be unjust that the said candidate shall forfeit his nomination or office, or be deprived of any office of which he is the incumbent, then the nomination or election of such candidate shall not by reason of such offense or omission complained of be void, nor shall the candidate be removed from or deprived of his office.

History: En. Sec. 38, Init. Act, Nov. 1912.

1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 182, 149 Pac. 960.

Cited or applied as section 38, Laws of

10804. Punishment for violation of act. If, upon the trial of any action or proceeding under the provisions of this act, for the contesting of the right of any person declared to be nominated to an office, or elected to an office, or to annul and set aside such election, or to remove any person from his office, it shall appear that such person was guilty of any corrupt practice, illegal act, or undue influence, in or about such nomination or election, he shall be punished by being deprived of the nomination or office, as the case may be, and the vacancy therein shall be filled in the manner provided by law. The only exception to this judgment shall be that provided in the preceding section of this act. Such judgment

shall not prevent the candidate or officer from being proceeded against by indictment or criminal information for any such act or acts.

History: En. Sec. 39, Init. Act, Nov. 1912. 1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 182, 149 Pac. 960.
Cited or applied as section 39, Laws of

10805. Time for commencing contest. Any action to contest the right of any person declared elected to an office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent, for any offense mentioned in this act, must, unless a different time be stated, be commenced within forty days after the return day of the election at which such offense was committed, unless the ground of the action or proceeding is for the illegal payment of money or other valuable thing subsequent to the filing of the statements prescribed by this act, in which case the action or proceeding may be commenced within forty days after the discovery by the complaint of such illegal payment. A contest of the nomination or office of governor or representative or senator in congress must be commenced within twenty days after the declaration of the result of the election, but this shall not be construed to apply to any contest before the legislative assembly.

History: En. Sec. 40, Init. Act, Nov. 1912. 1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 182, 149 Pac. 960.
Cited or applied as section 40, Laws of

10806. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a statement filed, or an action or proceeding to annul and set aside the election of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in this act, or any petition to excuse any person or candidate in accordance with the power of the court to excuse as provided in section 10803 of this code, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides.

History: En. Sec. 41, Init. Act, Nov. 1912.

10807. Disqualification of person convicted to hold office. A candidate nominated or elected to an office, and whose nomination or election thereto has been annulled and set aside for any offense mentioned in this act, shall not, during the period fixed by law as the term of such office, be elected or appointed to fill any office or vacancy in any office or position of trust, honor, or emolument under the laws of the state of Montana, or of any municipality therein. Any appointment or election to any office or position of trust, honor, or emolument, made in violation of or contrary to the provisions of this act, shall be void.

History: En. Sec. 42, Init. Act, Nov. 1912.

10808. Duty of county attorney on violation of act—Penalty for neglect or refusal to act. If any county attorney shall be notified by any officer or other person of any violation of any of the provisions of this act within his jurisdiction, it shall be his duty forthwith to diligently inquire into the facts of such violation, and if there is reasonable ground for instituting a prosecution, it shall be the duty of such county attorney to

file a complaint or information in writing, before a court of competent jurisdiction, charging the accused person with such offense; if any county attorney shall fail or refuse to faithfully perform any duty imposed upon him by this act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office. It shall be the duty of the county attorney, under penalty of forfeiture of his office, to prosecute any and all persons guilty of any violation of the provisions of this act, the penalty of which is fine or imprisonment, or both, or removal from office.

History: En. Sec. 43, Init. Act, Nov. 1912.

10809. Declaration of result of election after rejection of illegal votes.

If, in any case of a contest on the ground of illegal votes, it appears that another person than the one returned has the highest number of legal votes, after the illegal votes have been eliminated, the court must declare such person nominated or elected, as the case may be.

History: En. Sec. 44, Init. Act, Nov. 1912.

10810. Grounds for contest of nomination or office. Any elector of the state, or of any political or municipal division thereof, may contest the right of any person to any nomination or office for which such elector has the right to vote, for any of the following causes:

1. On the ground of deliberate, serious, and material violation of any of the provisions of this act, or of any other provision of the law relating to nominations or elections.

2. When the person whose right was contested was not, at the time of the election, eligible to such office.

3. On account of illegal votes or an erroneous or fraudulent count or canvass of votes.

History: En. Sec. 45, Init. Act, Nov. 1912.

This section permits a nomination as well as an election to be made the subject of contest, and in this respect extends the

law upon the subject. This addition was doubtless made in anticipation that the general primary election law would be adopted. *Cadle v. Town of Baker*, 51 Mont. 176, 181, 149 Pac. 960.

10811. Nomination or election not to be vacated, when. Nothing in the third ground of contest specified in the preceding section is to be so construed as to authorize a nomination or election to be set aside on account of illegal votes, unless it appear, either that the candidate or nominee whose right is contested had knowledge of or connived at such illegal votes, or that the number of illegal votes given to the person whose right to the nomination or office is contested, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same nomination or office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

History: En. Sec. 46, Init. Act, Nov. 1912.

10812. Reception of illegal votes, allegations and evidence. When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that in one or more specified voting precincts illegal votes were given to the person whose nomination or election is contested, which, if taken from him, will reduce the number of his legal votes below the number of legal votes given to some other person for the

same office; but no testimony shall be received of any illegal votes, unless the party contesting such election deliver to the opposite party, at least three days before such trial, a written list of the number of illegal votes, and by whom given, which he intends to prove on such trial. This provision shall not prevent the contestant from offering evidence of illegal votes not included in such statement, if he did not know and by reasonable diligence was unable to learn of such additional illegal votes, and by whom they were given, before delivering such written list.

History: En. Sec. 47, Init. Act, Nov. 1912.

10813. Contents of contest petition—Amendment—Bond—Costs—Citation—Precedence. Any petition contesting the right of any person to a nomination or election shall set forth the name of every person whose election is contested, and the grounds of the contest, and shall not thereafter be amended, except by leave of the court. Before any proceeding thereon the petitioner shall give bond to the state in such sum as the court may order, not exceeding two thousand dollars, with not less than two sureties, who shall justify in the manner required of sureties on bail-bonds, conditioned to pay all costs, disbursements, and attorney's fees that may be awarded against him if he shall not prevail. If the petitioner prevails, he may recover his costs, disbursements, and reasonable attorney's fees against the contestee. But costs, disbursements, and attorney's fees, in all such cases, shall be in the discretion of the court, and in case judgment is rendered against the petitioner, it shall also be rendered against the sureties on the bond. On the filing of any such petition, the clerk shall immediately notify the judge of the court, and issue a citation to the person whose nomination or office is contested, citing them to appear and answer, not less than three nor more than seven days after the date of filing the petition, and the court shall hear said cause, and every such contest shall take precedence over all other business on the court docket, and shall be tried and disposed of with all convenient despatch. The court shall always be deemed in session for the trial of such cases.

History: En. Sec. 48, Init. Act, Nov. 1912.

Under this section and the following section, the prevailing party in an election contest, whether the petitioner or respondent, is entitled to attorneys' fees in addition to his other costs and disbursements, the amount to be awarded in that behalf resting upon the sound discretion of the trial court. *Doty v. Reece*, 53 Mont. 404, 407, 164 Pac. 542.

This section and the following section, awarding the successful party in an election contest attorneys' fees, etc., are not open to constitutional objections that they deny to the unsuccessful one the equal pro-

tection of the laws, grant to the former a special privilege not enjoyed by successful litigants in other cases, violate the provision that justice shall be administered without sale, denial, or delay, and constitute an attempt to delegate legislative power to the courts. *Doty v. Reece*, 53 Mont. 404, 408, 164 Pac. 542.

Cited or applied as section 48, Laws of 1913, in *State ex rel. Smith v. District Court*, 50 Mont. 134, 137, 145 Pac. 721.

Validity of statute allowing attorneys' fees to successful party in election contest, see note 11 A. L. R. 894.

10814. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person, other than the petitioner and contestee, shall be made a party to the proceedings on such petition; and no person, other than said parties and their attorneys, shall be heard thereon, except by order of the court. If more than one petition is pending, or the election of more than one person

is contested, the court may, in its discretion, order the cases to be heard together, and may apportion the costs, disbursements, and attorney's fees between them, and shall finally determine all questions of law and fact, save only that the judge may, in his discretion, impanel a jury to decide on questions of fact. [In the case of a contested nomination or election for senator or representative in the legislative assembly, or for senator or representative in congress, the court shall forthwith certify its findings to the secretary of state, to be by him transmitted to the presiding officer of the body in question.] In the case of other nominations or elections, the court shall forthwith certify its decision to the board or official issuing certificates of nomination or election, which board or official shall thereupon issue certificates of nomination or election to the person or persons entitled thereto by such decision. If judgment of ouster against a defendant shall be rendered, said judgment shall award the nomination or office to the person receiving next the highest number of votes, unless it shall be further determined in the action, upon appropriate pleading and proof by the defendant, that some act has been done or committed which would have been ground in a similar action against such person, had he received the highest number of votes for such nomination or office, for a judgment of ouster against him; and if it shall be so determined at the trial, the nomination or office shall be by the judgment declared vacant, and shall thereupon be filled by a new election, or by appointment, as may be provided by law regarding vacancies in such nomination or office.

History: En. Sec. 49, Init. Act, Nov. 1912.

Note.—So much of the above section as is inclosed in brackets was held unconstitutional in *State ex rel. Smith v. District Court*, 50 Mont. 134, 145 Pac. 721.

If this section permits a candidate who did not receive the highest number of legal votes to be declared elected upon a judgment of ouster in a contest proceeding,

it is void as in contravention of section 13, article IX, of the constitution. *Cadle v. Town of Baker*, 51 Mont. 176, 185, 149 Pac. 960.

Cited or applied as section 49, Laws of 1913, in *State ex rel. Smith v. District Court*, 50 Mont. 134, 137, 145 Pac. 721; *Doty v. Reece*, 53 Mont. 404, 407, 164 Pac. 542.

10815. Corporations—Proceedings against, for violation of act. In like manner as prescribed for the contesting of an election, any corporation organized under the laws of or doing business in the state of Montana may be brought into court on the ground of deliberate, serious, and material violation of the provisions of this act. The petition shall be filed in the district court in the county where said corporation has its principal office, or where the violation of law is averred to have been committed. The court, upon conviction of such corporation, may impose a fine of not more than ten thousand dollars, or may declare a forfeiture of the charter and franchises of the corporation, if organized under the laws of this state, or if it be a foreign corporation, may enjoin said corporation from further transacting business in this state, or by both such fine and forfeiture, or by both such fine and injunction.

History: En. Sec. 50, Init. Act, Nov. 1912.

Cited or applied as section 50, Laws of

1913, in *Cadle v. Town of Baker*, 51 Mont. 176, 181, 149 Pac. 960.

10816. Penalty for violations not otherwise provided for. Whoever violates any provision of this act, the punishment for which is not specially provided by law, shall on conviction thereof be punished by imprisonment

in the county jail for not more than one year, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 51, Init. Act, Nov. 1912. 1913, in Cadle v. Town of Baker, 51 Mont. 176, 181, 149 Pac. 960.
Cited or applied as section 51, Laws of

10817. Advancement of cases—Dismissal, when—Privileges of witnesses. Proceedings under this act shall be advanced on the docket upon request of either party for speedy trial, but the court may postpone or continue such trial if the ends of justice may be thereby more effectually secured, and in case of such continuance or postponement, the court may impose costs in its discretion as a condition thereof. No petition shall be dismissed without the consent of the county attorney, unless the same shall be dismissed by the court. No person shall be excused from testifying or producing papers or documents on the ground that his testimony or the production of papers or documents will tend to criminate him; but no admission, evidence, or paper made or advanced or produced by such person shall be offered or used against him in any civil or criminal prosecution, or any evidence that is the direct result of such evidence or information that he may have so given, except in a prosecution for perjury committed in such testimony.

History: En. Sec. 52, Init. Act, Nov. 1912. 1913, in State ex rel. Smith v. District Court, 50 Mont. 134, 137, 145 Pac. 721.
Cited or applied as section 52, Laws of

10818. Form of complaint. A petition or complaint filed under the provisions of this act shall be sufficient if it is substantially in the following form:

In the District Court of the
..... Judicial District,
for the County of....., State of Montana.

A B (or A B and C D), Contestants,
vs.
E F, Contestee.

The petition of contestant (or contestants) above named alleges:
That an election was held (in the state, district, county, or city of), on the day of, A. D. 19..., for the (nomination of a candidate for) (or election of a) (state the office).
That and were candidates at said election, and the board of canvassers has returned the said as being duly nominated (or elected) at said election.
That contestant A B voted (or had a right to vote, as the case may be) at said election (or claims to have had a right to be returned as the nominee or officer elected or nominated at said election, or was a candidate at said election, as the case may be), and said contestant C D (here state in like manner the right of each contestant).
And said contestant (or contestants) further allege (here state the facts and grounds on which the contestants rely).
Wherefore, your contestants pray that it may be determined by the court that said was not duly nominated (or elected), and that said election was void (or that the said A B or C D, as the case may be) was duly nominated (or elected), and for such other and further relief as to the court may seem just and legal in the premises.

Said complaint shall be verified by the affidavit of one of the petitioners in the manner required by law for the verification of complaints in civil cases.

History: En. Sec. 53, Init. Act, Nov. 1912. 1913, in State ex rel. Smith v. District Court, 50 Mont. 134, 137, 145 Pac. 721.
Cited or applied as section 53, Laws of

10819. Form of statement of expenses. The statement of expenses required from candidates and others by this act shall be in substantially the following form:

State of Montana, County of, ss.

I,, having been a candidate (or expended money) at the election for the (state) (district) (county) (city) of, on the day of, A. D. 19..., being first duly sworn, on oath do say: That I have carefully examined and read the return of my election expenses and receipts hereto attached, and to the best of my knowledge and belief that return is full, correct, and true.

And I further state on oath that, except as appears from this return, I have not, and to the best of my knowledge and belief, no person, nor any club, society, or association has on my behalf, whether authorized by me or not, made any payment, or given, promised, or offered any reward, office, employment, or position, public or private, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said nomination or election.

And I further state on oath that, except as specified in this return, I have not paid any money, security, or equivalent for money, nor has any money or equivalent for money, to my knowledge or belief, been paid, advanced, given, or deposited by any one to or in the hands of myself or any other person for my nomination or election, or for the purpose of paying any expenses incurred on my behalf on account or in respect of the conduct or management of the said election.

And I further state on oath that I will not, except so far as I may be permitted by law, at any future time make or be a party to the making or giving of any payment, reward, office, position, or employment, or valuable consideration, for the purpose of defraying any such expenses or obligations as herein mentioned for or on account of my nomination or election, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expense.

(Signature of affiant).....

Subscribed and sworn to before me by the above-named, on the day of, A. D. 19...

Attached to said affidavit shall be a full and complete account of the receipts, contributions, and expenses of said affiant, and of his supporters of which he has knowledge, with numbered vouchers for all sums and payments for which vouchers are required as to all money expended by affiant. The affidavit and account of the treasurer of any committee or any political party or organization shall be, as nearly as may be, in the same form, and so also shall be the affidavit of any person who has received or expended money in excess of the sum of fifty dollars to aid in securing the nomination or election or defeat of any candidate, or of any political party or organization, or of any measure before the people.

History: En. Sec. 54, Init. Act, Nov. 1912.

10820. False oaths or affidavits—Perjury. Any person who shall knowingly make any false oath or affidavit where an oath or affidavit is required by this law shall be deemed guilty of perjury and punished accordingly.

History: En. Sec. 55, Init. Act, Nov. 1912.

CHAPTER 7.

OFFENSES BY PUBLIC OFFICERS.

- Section** 10821. Acting in a Public Capacity Without Having Qualified.
 10822. Acts of Officers De Facto Not Affected.
 10823. Giving or Offering Bribes to Executive Officers.
 10824. Asking or Receiving Bribes.
 10825. Resisting Officers.
 10826. Extortion.
 10827. Officers Illegally Interested in Contracts.
 10828. Presenting Fraudulent Bills or Claims for Allowance or Payment.
 10829. Buying Appointments to Office.
 10830. Taking Rewards for Deputation.
 10831. Exercising Functions of Office Wrongfully.
 10832. Refusal to Surrender Books, etc., to Successor.
 10833. Preceding Sections to Apply to Administrative and Ministerial Officers.

10821. Acting in a public capacity without having qualified. Every person who exercises any function of a public office without taking the oath of office, or without giving the required bond, is guilty of a misdemeanor.

History: En. Sec. 130, Pen. C. 1895; re-en. Sec. 8176, Rev. C. 1907. Cal. Pen. C. Sec. 65.

10822. Acts of officers de facto not affected. The last section does not affect the validity of acts done by a person exercising the functions of a public office in fact, where other persons than himself are interested in maintaining the validity of such acts.

History: En. Sec. 131, Pen. C. 1895; re-en. Sec. 8177, Rev. C. 1907. Cal. Pen. C. Sec. 66.

10823. Giving or offering bribes to executive officers. Every person who gives or offers any bribe to any executive officer of this state, with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in the state prison not less than one nor more than ten years, and is disqualified from holding any office in this state.

History: En. Sec. 132, Pen. C. 1895; re-en. Sec. 8178, Rev. C. 1907. Cal. Pen. C. Sec. 67.

10824. Asking or receiving bribes. Every executive officer or person elected or appointed to an executive office, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion, or action upon any matter then pending, or which may be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in the state prison not less than one nor more than

fourteen years; and, in addition thereto, forfeits his office, and is forever disqualified from holding any office in this state.

History: En. Sec. 133, Pen. C. 1895; re-en. Sec. 8179, Rev. C. 1907. Cal. Pen. C. Sec. 68.

10825. Resisting officers. Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer in the performance of his duty, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years.

Related sections: 10928.

History: En. Sec. 134, Pen. C. 1895; re-en. Sec. 8180, Rev. C. 1907. Cal. Pen. C. Sec. 69.

Cited or applied as section 8180, Revised Codes, in State ex rel. Quintin v. Edwards, 38 Mont. 250, 266, 99 Pac. 940.

10826. Extortion. Every executive or ministerial officer who knowingly asks or receives any emolument, gratuity, or reward, or any promise thereof, except such as may be authorized by law, for doing any official act, is guilty of a misdemeanor.

History: En. Sec. 135, Pen. C. 1895; re-en. Sec. 8181, Rev. C. 1907. Cal. Pen. C. Sec. 70.

10827. Officers illegally interested in contracts. Every officer or person prohibited by the laws of this state from making or being interested in contracts, or from becoming a vendor or purchaser at sales, or from purchasing scrip, or other evidences of indebtedness, who violates any of the provisions of such laws, is punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail or state prison not more than five years, and is forever disqualified from holding any office in this state.

History: En. Sec. 136, Pen. C. 1895; re-en. Sec. 8182, Rev. C. 1907. Cal. Pen. C. Sec. 71.

Evidence held to be insufficient to sustain a conviction in a prosecution for purchasing evidences of indebtedness against the county, contrary to this section. State v. Danzer, 35 Mont. 269, 272, 88 Pac. 952.

A police captain is an "officer," within

the meaning of this section and section 447 making the purchase of a city warrant by city officers a crime punishable by disqualification from holding office, and the fact that the accused bought the warrant for a brother officer is unavailing as a defense. State ex rel. O'Brien v. Mayor of Butte, 54 Mont. 533, 537, 172 Pac. 134.

Cited or applied as section 136, Penal Code, in State v. Newman, 34 Mont. 434, 441, 87 Pac. 462.

10828. Presenting fraudulent bills or claims for allowance or payment. Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, town, city, ward, or board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is guilty of felony.

History: En. Sec. 137, Pen. C. 1895; re-en. Sec. 8183, Rev. C. 1907. Cal. Pen. C. Sec. 72.

10829. Buying appointments to office. Every person who gives or offers any gratuity or reward, in consideration that he or any other person

shall be appointed to any public office, or shall be permitted to exercise or discharge the duties thereof, is guilty of a misdemeanor.

History: En. Sec. 138, Pen. C. 1895; re-en. Sec. 8184, Rev. C. 1907. Cal. Pen. C. Sec. 73.

10830. Taking rewards for deputation. Every public officer who, for any gratuity or reward, appoints another person to a public office, or permits another person to exercise or discharge any of the duties of his office, is punishable by a fine not exceeding five thousand dollars, and, in addition thereto, forfeits his office, and is forever disqualified from holding any office in this state.

History: Ap. p. Sec. 114, p. 205, Bank Stat.; re-en. Sec. 127, p. 298, Cod. Stat. 1871; re-en. Sec. 127, 4th Div. Rev. Stat. 1879; re-en. Sec. 136, 4th Div. Comp. Stat. 1887; amd. Sec. 139, Pen. C. 1895; re-en. Sec. 8185, Rev. C. 1907. Cal. Pen. C. Sec. 74.

10831. Exercising functions of office wrongfully. Every person who wilfully and knowingly intrudes himself into any public office to which he has not been elected or appointed, and every person who, having been an executive officer, wilfully exercises any of the functions of his office after his term has expired, and a successor has been elected or appointed and has qualified, is guilty of a misdemeanor.

History: Ap. p. Sec. 110, p. 204, Bank Stat.; re-en. Sec. 124, p. 298, Cod. Stat. 1871; re-en. Sec. 124, 4th Div. Rev. Stat. 1879; re-en. Sec. 133, 4th Div. Comp. Stat. 1887; amd. Sec. 140, Pen. C. 1895; re-en. Sec. 8186, Rev. C. 1907. Cal. Pen. C. Sec. 75.

10832. Refusal to surrender books, etc., to successor. Every officer whose office is abolished by law, or who, after the expiration of the time for which he may be appointed or elected, or after he has resigned or been legally removed from office, wilfully and unlawfully withholds or detains from his successor, or other person entitled thereto, the records, papers, documents, or other writings appertaining or belonging to his office, or wrongfully refuses to surrender the official seal, or mutilates, destroys, or takes away the same, is guilty of a misdemeanor, and is punishable by a fine not exceeding two thousand dollars, or by imprisonment not exceeding one year, or both.

History: Ap. p. Sec. 96, p. 200, Bank Stat.; re-en. Sec. 108, p. 294, Cod. Stat. 1871; re-en. Sec. 108, 4th Div. Rev. Stat. 1879; re-en. Sec. 116, 4th Div. Comp. Stat. 1887; amd. Sec. 141, Pen. C. 1895; re-en. Sec. 8187, Rev. C. 1907. Cal. Pen. C. Sec. 76.

10833. Preceding sections to apply to administrative and ministerial officers. The various provisions of this chapter apply to administrative and ministerial officers, in the same manner as if they were mentioned therein.

History: En. Sec. 142, Pen. C. 1895; re-en. Sec. 8188, Rev. C. 1907. Cal. Pen. C. Sec. 77.

CHAPTER 8.

OFFENSES AGAINST THE LEGISLATURE AND BY AND AGAINST MEMBERS THEREOF.

- Section 10834. Preventing the Meeting or Organization of Legislative Assembly.
 10835. Disturbing the Legislative Assembly While in Session.
 10836. Altering Draft of Bill or Resolution.
 10837. Altering Engrossed or Enrolled Copy of Bill or Resolution.
 10838. Giving or Offering Bribes to Members of the Legislative Assembly.
 10839. Receiving Bribes by Members of the Legislative Assembly.
 10840. Solicitation of Bribes.
 10841. Bribery of Members of Legislative Assembly.
 10842. Bribery of Public Officers Generally.
 10843. Corrupt Solicitation of Official Action Constitutes Solicitation of Bribery.
 10844. Personal Interest in Bill.
 10845. Witnesses Refusing to Attend, etc., Before the Legislative Assembly.
 10846. Lobbying.
 10847. Members of Legislative Assembly, in Addition to Other Penalties, to Forfeit Office, etc.
 10848. Bribery and Solicitation of Bribery by Member of Legislature.
 10849. Bribery of Member of Legislature.
 10850. Acts Constituting Bribery.
 10851. Same.
 10852. Penalties for Violation of Act.

10834. Preventing the meeting or organization of legislative assembly.

Every person who wilfully, and by force and fraud, prevents the legislative assembly of this state, or either of the houses composing it, or any of the members thereof, from meeting or organizing, is guilty of felony.

History: En. Sec. 160, Pen. C. 1895; re-en. Sec. 8190, Rev. C. 1907. Cal. Pen. C. Sec. 81.

10835. Disturbing the legislative assembly while in session. Every person who wilfully disturbs the legislative assembly of this state, or either of the houses composing it, while in session, or who commits any disorderly conduct in the immediate view and presence of either house, tending to interrupt its proceedings or impair the respect due its authority, is guilty of a misdemeanor.

History: En. Sec. 161, Pen. C. 1895; re-en. Sec. 8191, Rev. C. 1907. Cal. Pen. C. Sec. 82.

10836. Altering draft of bill or resolution. Every person who fraudulently alters the draft of any bill or resolution which has been presented to either of the houses composing the legislative assembly, to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by the presiding officer of either house, in language different from that intended by such house, is guilty of felony.

History: En. Sec. 162, Pen. C. 1895; re-en. Sec. 8192, Rev. C. 1907. Cal. Pen. C. Sec. 83.

10837. Altering engrossed or enrolled copy of bill or resolution. Every person who fraudulently alters the engrossed copy or enrollment of any bill or resolution which has been passed or adopted by the legislative assembly of this state, with intent to procure it to be approved by the governor, or certified by the secretary of state, or printed or published

by the printer of statutes, in language different from that in which it was passed or adopted by the legislative assembly, is guilty of felony.

History: En. Sec. 163, Pen. C. 1895; re-en. Sec. 8193, Rev. C. 1907. Cal. Pen. C. Sec. 84.

10838. Giving or offering bribes to members of the legislative assembly.

Every person who gives or offers a bribe to any member of the legislative assembly, or to another person for him, or attempts, by menace, deceit, suppression of truth, or any corrupt means, to influence a member in giving or withholding his vote, or in not attending the house or any committee of which he is a member, is punishable by imprisonment in the state prison not less than one nor more than ten years.

History: En. Sec. 164, Pen. C. 1895; Bribery of a member of the legislature re-en. Sec. 8194, Rev. C. 1907. Cal. Pen. C. is a felony. In re Wellcome, 23 Mont. 140, 145, 58 Pac. 45.

10839. Receiving bribes by members of the legislative assembly. Every member of either of the houses composing the legislative assembly of this state, who asks, receives, or agrees to receive any bribe, upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner, or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or gives, or offers, or promises to give any official vote in consideration that another member of the legislative assembly shall give any such vote, either upon the same or another question, is punishable by imprisonment in the state prison not less than one nor more than ten years.

History: En. Sec. 165, Pen. C. 1895; re-en. Sec. 8195, Rev. C. 1907. Cal. Pen. C. Sec. 86.

10840. Solicitation of bribes. Every person elected to either house of the legislative assembly who offers or promises to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, is guilty of solicitation of bribery, and is punishable in the state prison not less than one year nor more than ten years.

History: En. Sec. 166, Pen. C. 1895; re-en. Sec. 8196, Rev. C. 1907.

10841. Bribery of members of legislative assembly. Every member of the legislative assembly who gives his vote or influence for or against any measure or proposition, pending or proposed to be introduced in such legislative assembly, or offers, promises, or assents to give the same, upon condition that any other member will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced in such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, is guilty of bribery, and is punishable in the state prison not less than one nor more than ten years.

History: En. Sec. 167, Pen. C. 1895; re-en. Sec. 8197, Rev. C. 1907.

10842. Bribery of public officers generally. Every person who, directly or indirectly, offers, gives, or promises any money or thing of value, testimonial, privilege, or personal advantage to any executive or judicial officer, or member of the legislative assembly, or to any public officer of the state, or of any municipal division thereof, to influence him in the performance of any of his official or public duties, is guilty of bribery, and is punishable in the state prison not less than one nor more than ten years.

History: En. Sec. 168, Pen. C. 1895; re-en. Sec. 8198, Rev. C. 1907.

10843. Corrupt solicitation of official action constitutes solicitation of bribery. Every person who corruptly solicits, directly or indirectly, the official action of any member of the legislative assembly, or of any public officer of the state, or of any municipal division thereof, is guilty of the occupation and practice of solicitation of bribery, and is punishable in the state prison not less than one nor more than ten years.

History: En. Sec. 169, Pen. C. 1895; re-en. Sec. 8199, Rev. C. 1907.

10844. Personal interest in bill. Every member of the legislative assembly who has a personal or private interest in any measure or bill, proposed or pending before the legislative assembly of which he is a member, and does not disclose the fact to the house of which he is a member, and votes thereon, is guilty of a misdemeanor.

History: En. Sec. 170, Pen. C. 1895; re-en. Sec. 8200, Rev. C. 1907.

10845. Witnesses refusing to attend, etc., before the legislative assembly. Every person who, being summoned to attend as a witness before either house of the legislative assembly, or any committee thereof, refuses or neglects, without lawful excuse, to attend pursuant to such summons, and every person who, being present before either house of the legislative assembly, or any committee thereof, wilfully refuses to be sworn, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

History: En. Sec. 171, Pen. C. 1895; re-en. Sec. 8201, Rev. C. 1907. Cal. Pen. C. Sec. 87.

10846. Lobbying. Every person who obtains, or seeks to obtain money or other thing of value from another person, upon a pretense, claim, or representation that he can or will improperly influence in any manner the action of any member of any legislative body in regard to any vote or legislative matter, is guilty of felony. Upon the trial no person, otherwise competent as a witness, shall be excused from testifying as such concerning the offense charged, on the ground that such testimony may criminate himself, or subject him to public infamy, but such testimony shall not afterward be used against him in any judicial proceeding, except for perjury in giving such testimony.

History: En. Sec. 172, Pen. C. 1895; re-en. Sec. 8202, Rev. C. 1907. Cal. Pen. C. Sec. 89.

10847. Members of legislative assembly, in addition to other penalties, to forfeit office, etc. Every member of the legislative assembly convicted

of any crime defined in this chapter, in addition to the punishment prescribed, forfeits his office, and is forever disqualified from holding any office in this state.

History: En. Sec. 173, Pen. C. 1895; re-en. Sec. 8203, Rev. C. 1907. Cal. Pen. C. Sec. 88.

10848. Bribery and solicitation of bribery by member of legislature. Any person elected to either house of the legislative assembly, who shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, shall be deemed guilty of solicitation of bribery. Any member of the legislative assembly who shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such legislative assembly, or offer, promise, or assent so to, upon condition that any other member will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, shall be deemed guilty of bribery.

History: Sec. 8204, Rev. C. 1907.

Laws of 1893; re-enacted as sections 174 to 178, Penal Code 1895; re-enacted as sections 8204 to 8208, Revised Codes 1907.

Note.—Sections 10848 to 10852 were enacted as sections 1 to 5, pp. 44 and 45,

10849. Bribery of member of legislature. Any person who shall, directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the legislative assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery.

History: En. Sec. 8205, Rev. C. 1907. See also history of Sec. 10848.

10850. Acts constituting bribery. Any person or persons who shall give, or promise, or offer to give or promise, any member of either house of the legislative assembly any money, office, paper, or property, or other valuable thing, or shall offer to do for such member, or any member of his family, relative, or other person, anything not common to the people of the state, county, township, or community in which such person resides, in consideration that such member shall vote in either house of the legislative assembly in any given way, or in consideration that such member shall do, or omit to do, anything pertaining to his office or duty as a member of such legislative assembly, shall be deemed guilty of bribery.

History: En. Sec. 8206, Rev. C. 1907. See also history of Sec. 10848.

10851. Same. Any person or persons who shall, directly or indirectly, give any money, property, or other valuable thing, or make any promise of any kind whatever, with the intent to have it proffered to such member of the legislative assembly to influence his vote or action in con-

nection with his said office by any other person than himself, or shall aid or abet in the commission of the offense described in the two preceding sections of this act, shall be deemed guilty of bribery.

History: Sec. 8207, Rev. C. 1907. See also history of Sec. 10848.

10852. Penalties for violation of act. Every person convicted of violating any of the provisions of this act shall be punishable by imprisonment in the state penitentiary for a term of not less than five years nor more than twenty years, or by a fine not less than one hundred dollars nor more than five thousand dollars, or by both such fine and imprisonment, and shall be forever disqualified from voting or holding any office in this state; and any member of the legislative assembly, or person elected thereto, who shall be convicted of violating any of the provisions of this act shall, in addition to the punishment above prescribed, be expelled therefrom.

History: Sec. 8208, Rev. C. 1907. See also history of Sec. 10848.

CHAPTER 9.

BRIBERY AND CORRUPTION.

- Section 10853. Giving Bribes to Judges, Jurors, Referees, etc.
 10854. Receiving Bribes by Judicial Officers, Jurors, etc.
 10855. Extortion.
 10856. Improper Attempts to Influence Jurors, Referees, etc.
 10857. Misconduct of Jurors, Referees, etc.
 10858. Embracery.
 10859. Misconduct of Officers Having Charge of Jury.
 10860. Justice or Constable Purchasing Judgment.
 10861. Convicted Officer to Forfeit and Be Disqualified From Holding Office.
 10862. Bribery of School Trustees.
 10863. Offender a Competent Witness.

10853. Giving bribes to judges, jurors, referees, etc. Every person who gives or offers to give a bribe to any judicial officer, juror, referee, arbitrator, umpire, appraiser, or assessor, or to any person who may be authorized by law to hear or determine any question or controversy, with intent to influence his vote, opinion, or decision upon any matter or question which is or may be brought before him for decision, is punishable by imprisonment in the state prison not less than one nor more than ten years.

History: En. Sec. 190, Pen. C. 1895; re-en. Sec. 8209, Rev. C. 1907. Cal. Pen. C. Sec. 92.

who have been sworn in a particular case, whose votes it is sought to influence. State ex rel. Webb v. District Court, 37 Mont. 191, 198, 95 Pac. 593, 15 Ann. Cas. 743.

The provisions of this section include offers made to members of the jury panel, and do not refer to those members only

For text treatment of "Bribery," see 4 Cal. Jur. 482 and 4 R. C. L. 176.

10854. Receiving bribes by judicial officers, jurors, etc. Every judicial officer, juror, referee, arbitrator, umpire, appraiser, or assessor, and every person authorized by law to hear or determine any question or controversy, who asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his vote, opinion, judgment, action, decision, or other official proceeding upon any matter or question which is or may be brought before him for decision, shall be influenced thereby, is punish-

able by imprisonment in the state prison not less than one nor more than ten years.

History: En. Sec. 191, Pen. C. 1895; re-en. Sec. 8210, Rev. C. 1907. Cal. Pen. C. Sec. 93.

10855. Extortion. Every judicial officer who asks or receives any emolument, gratuity, or reward, or any promise thereof, except such as may be authorized by law, for doing any official act, is guilty of a felony.

History: En. Sec. 192, Pen. C. 1895; re-en. Sec. 8211, Rev. C. 1907. Cal. Pen. C. Sec. 94.

10856. Improper attempts to influence jurors, referees, etc. Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator or umpire, or appointed a referee, in respect to his verdict in, or decision of, any cause or proceeding, pending or about to be brought before him, either:

1. By means of any communication, oral or written, had with him except in the regular course of proceedings;

2. By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

3. By means of any threat, intimidation, persuasion, or entreaty; or

4. By means of any promise, assurance of any pecuniary or other advantage,

is punishable by fine not exceeding five thousand dollars, or by imprisonment in the state prison not exceeding five years.

History: En. Sec. 193, Pen. C. 1895; re-en. Sec. 8212, Rev. C. 1907. Cal. Pen. C. Sec. 95.

a felony, whether the juror has been actually sworn in a particular case, or is only a member of the panel from which a jury is to be selected. State ex rel. Webb v. District Court, 37 Mont. 191, 198, 95 Pac. 593, 15 Ann. Cas. 743.

One who offers a bribe to a juror, with an intent to influence his decision, is guilty of

10857. Misconduct of jurors, referees, etc. Every juror, or person summoned or drawn as a juror, or chosen arbitrator or umpire, or appointed referee, who either:

1. Makes any promise or agreement to give any verdict or decision for or against any party; or,

2. Wilfully and corruptly permits any communication to be made to him, or receives any book, paper, instrument, or information relating to any cause or matter pending before him, except according to the regular course of proceedings,

is punishable by fine not exceeding five thousand dollars, or by imprisonment in the state prison not exceeding five years.

History: En. Sec. 194, Pen. C. 1895; re-en. Sec. 8213, Rev. C. 1907. Cal. Pen. C. Sec. 96.

10858. Embracery. Every person who influences, or attempts to influence, improperly, a juror in a civil or criminal action or proceeding, or one drawn or summoned to attend as a juror, or one chosen as an arbitrator, or appointed a referee, in respect to his verdict, judgment, report, award, or decision in any cause or matter pending or about to be brought before him in any case, is punishable as provided in section 10856.

History: En. Sec. 195, Pen. C. 1895; re-en. Sec. 8214, Rev. C. 1907.

10859. Misconduct of officers having charge of jury. Every officer to whose charge a jury is committed by a court or judge, who negligently or wilfully permits them, or any of them, without leave of the court or judge:

1. To receive any communication from any person;
2. To make any communication to any person;
3. To obtain or receive any book or paper or refreshment; or,
4. To leave the jury-room,

is guilty of a misdemeanor.

History: En. Sec. 196, Pen. C. 1895; re-en. Sec. 8215, Rev. C. 1907.

10860. Justice or constable purchasing judgment. Every justice of the peace, or constable of the same township, who purchases or is interested in the purchase of any judgment, or part thereof, on the docket of, or on any docket in the possession of, such justice, is guilty of a misdemeanor.

History: En. Sec. 113, p. 205, Bannack 1887; amd. Sec. 197, Pen. C. 1895; re-en. Stat.; re-en. Sec. 126, p. 298, Cod. Stat. Sec. 8216, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 126, 4th Div. Rev. Stat. 97.
1879; re-en. Sec. 135, 4th Div. Comp. Stat.

10861. Convicted officer to forfeit and be disqualified from holding office. Every officer convicted of any crime defined in this chapter, in addition to the punishment prescribed, forfeits his office, and is forever disqualified from holding any office in this state.

History: En. Sec. 198, Pen. C. 1895; re-en. Sec. 8217, Rev. C. 1907. Cal. Pen. C. Sec. 98.

10862. Bribery of school trustees. The offering of any valuable thing to any member of a board of education, school trustee, or other school officer, with the intent thereby to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employee, the adoption of any textbook, or the making of any contract to which a board of education, school trustees, or other officer is a party, or the acceptance by any member of a board or officer of any valuable thing, with corrupt intent, shall be a felony, and shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the penitentiary not exceeding one year, or by both such fine and imprisonment; and the person so convicted shall be forever disqualified from holding any office of trust or profit.

History: En. Sec. 199, Pen. C. 1895; re-en. Sec. 8218, Rev. C. 1907.

10863. Offender a competent witness. A person offending against any provision of any section of this code relating to bribery is a competent witness against another person so offending, and may be compelled to attend and testify on any trial, hearing, proceeding, or investigation in the same manner as any other person; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. A person so testifying to the giving of a bribe which has been accepted shall not thereafter be liable to indictment,

Montana
Collection
K931 M
v.4
SEP 13 1928 Helena Public Library. 71103

prosecution, or punishment for that bribery, and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

History: En. Sec. 200, Pen. C. 1895;
re-en. Sec. 8219, Rev. C. 1907.

Cited or applied as section 200, Penal Code, in *In re Wellcome*, 23 Mont. 213, 218, 58 Pac. 47.

CHAPTER 10.

RESCUES AND ESCAPES.

- Section 10864. Rescuing Prisoners.
10865. Retaking Goods From Custody of Officer.
10866. Escapes From State Prison—Punishment.
10867. Attempt to Escape From State Prison.
10868. Escapes From Other Than State Prisons.
10869. Officers Suffering Convicts to Escape.
10870. Assisting Prisoner to Escape.
10871. Carrying Into Prison Things Useful to Aid in an Escape.
10872. Expense of Trial for Escape.

10864. Rescuing prisoners. Every person who rescues, or attempts to rescue, or aids another person in rescuing, or attempting to rescue, any prisoner, from any prison or jail, or from any officer or person having him in lawful custody, is punishable as follows:

1. If such prisoner was in custody upon a conviction of felony punishable by death; by imprisonment in the state prison not less than one nor more than fourteen years.

2. If such prisoner was in custody upon a conviction of any other felony; by imprisonment in the state prison not less than six months nor more than five years.

3. If such prisoner was in custody upon a charge of felony; by a fine not exceeding one thousand dollars, and imprisonment in the county jail not exceeding two years.

4. If such prisoner was in custody otherwise than upon a charge or conviction of felony; by fine not exceeding five hundred dollars, and imprisonment in the county jail not exceeding six months.

History: En. Sec. 210, Pen. C. 1895;
re-en. Sec. 8220, Rev. C. 1907. Cal. Pen. C.
Sec. 101.

Division Revised Statutes 1879; re-enacted
as sections 121 and 122, Fourth Division
Compiled Statutes 1887.

Note.—For earlier acts see sections 112
and 113, p. 295, Codified Statutes 1871;
re-enacted as sections 112 and 113, Fourth

For text treatment of "Escape and Res-
cue," see Cal. Jur. and 10 R. C. L. 578.

10865. Retaking goods from custody of officer. Every person who wilfully injures or destroys, or takes or attempts to take, or assists any person in taking or attempting to take, from the custody of any officer or person, any personal property which such officer or person has in charge under any process of law, is guilty of a misdemeanor.

History: En. Sec. 211, Pen. C. 1895; re-en. Sec. 8221, Rev. C. 1907. Cal. Pen. C. Sec. 102.

10866. Escapes from state prison—Punishment. Every prisoner confined in state prison for a term less than for life, who escapes therefrom, is punishable by imprisonment in the state prison for a term of not less than one year nor more than ten years; said second term of imprison-

ment to commence from the time he would have otherwise been discharged from said prison.

History: En. Sec. 220, Pen. C. 1895; re-en. Sec. 8222, Rev. C. 1907. Cal. Pen. C. Sec. 105.

10867. Attempt to escape from state prison. Every prisoner confined in the state prison for a term less than for life, who attempts to escape from such prison, is punishable by imprisonment in the state prison for a term not less than one nor more than ten years, and, on conviction thereof, the term of imprisonment therefor shall commence from the time such convict would otherwise have been discharged from said prison.

History: En. Sec. 221, Pen. C. 1895; re-en. Sec. 8223, Rev. C. 1907. Cal. Pen. C. Sec. 106.

10868. Escapes from other than state prisons. Every prisoner confined in any other prison than the state prison, who escapes or attempts to escape therefrom, is guilty of a misdemeanor.

History: En. Sec. 222, Pen. C. 1895; re-en. Sec. 8224, Rev. C. 1907. Cal. Pen. C. Sec. 107.

10869. Officers suffering convicts to escape. Every keeper of a prison, sheriff, deputy sheriff, constable, or jailer, or person employed as a guard, who fraudulently contrives, procures, aids, connives at, or voluntarily permits the escape of any prisoner in custody, is punishable by imprisonment in the state prison not exceeding ten years, and fine not exceeding ten thousand dollars.

History: Ap. p. Sec. 102, p. 202, Ban- Stat. 1887; en. Sec. 223, Pen. C. 1895;
nack Stat.; re-en. Sec. 114, p. 295, Cod. re-en. Sec. 8225, Rev. C. 1907. Cal. Pen.
Stat. 1871; re-en. Sec. 114, 4th Div. Rev. C. Sec. 108.
Stat. 1879; re-en. Sec. 123, 4th Div. Comp.

10870. Assisting prisoner to escape. Every person who wilfully assists any prisoner confined in any prison, or in the lawful custody of any officer or person, to escape, or in an attempt to escape from such prison or custody, is punishable as provided in the preceding section.

History: Ap. p. Sec. 105, p. 202, Ban- Stat. 1887; en. Sec. 224, Pen. C. 1895;
nack Stat.; re-en. Sec. 117, p. 296, Cod. re-en. Sec. 8226, Rev. C. 1907. Cal. Pen.
Stat. 1871; re-en. Sec. 117, 4th Div. Rev. C. Sec. 109.
Stat. 1879; re-en. Sec. 126, 4th Div. Comp.

10871. Carrying into prison things useful to aid in an escape. Every person who carries or sends into a prison anything useful in aiding a prisoner to make his escape, with intent thereby to facilitate the escape of any prisoner confined therein, is punishable as provided in section 10869 of this code.

History: Ap. p. Sec. 103, p. 202, Ban- Stat. 1887; en. Sec. 225, Pen. C. 1895;
nack Stat.; re-en. Sec. 115, p. 295, Cod. re-en. Sec. 8227, Rev. C. 1907. Cal. Pen. C.
Stat. 1871; re-en. Sec. 115, 4th Div. Rev. Sec. 110.
Stat. 1879; re-en. Sec. 124, 4th Div. Comp.

10872. Expense of trial for escape. Whenever a trial takes place of any person under any of the provisions of sections 10866 and 10867 of this code, and whenever a prisoner in the state prison shall be tried for any crime committed therein, the county clerk of the county where such trial is had shall make out a statement of all the costs incurred by the county

for the trial of such case, and of guarding and keeping such prisoner, properly certified by a district judge of said county, which statement shall be sent to the board of state prison commissioners for their approval; and after such approval, said board must cause the amount of such costs to be paid out of the money appropriated for the support of the state prison to the county treasurer of the county where such trial was had.

History: En. Sec. 226, Pen. C. 1895; re-en. Sec. 8228, Rev. C. 1907. Cal. Pen. C. Sec. 111.

CHAPTER 11.

LARCENY AND FALSIFICATION OF PUBLIC RECORDS AND JURY-LISTS.

- Section 10873. Larceny, Destruction, etc., of Records by Officers.
 10874. Larceny, Destruction, etc., of Records by Others.
 10875. Offering Forged or False Instruments to Be Recorded.
 10876. Adding Names, etc., to the Jury-Lists.
 10877. Falsifying Jury-Lists, etc.

10873. Larceny, destruction, etc., of records by officers. Every officer having the custody of any record, map, or book, or of any paper or proceeding of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, wilfully destroying, mutilating, defacing, altering, or falsifying, removing, or secreting the whole or any part of such record, map, book, paper, or proceeding, or who permits any other person so to do, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

History: En. Sec. 230, Pen. C. 1895; re-en. Sec. 8229, Rev. C. 1907. Cal. Pen. C. Sec. 113.

An indictment under this section, for wilfully secreting a public record, need not allege an intent to injure any particular person, in view of section 10713 providing that an act may be done "wilfully" without any intent to injure another, nor is it necessary that it allege the means used to secrete the record. State v. Bloor, 20 Mont. 574, 583, 52 Pac. 611.

Where a bill was placed in the hands of the secretary of the senate after its pas-

sage in that body, to be transmitted by him in his official capacity to the house, and he wilfully withheld it, he was guilty of secreting a public record, though he was not the officer required by law to take charge of bills. State v. Bloor, 20 Mont. 574, 584, 52 Pac. 611.

This section refers to mutilating, defacing, or altering books, maps, and other documents which are matters of evidence, and has no reference to the making of a correct index of the contents of any books in a public office. State ex rel. Coad v. District Court, 23 Mont. 171, 175, 57 Pac. 1095.

10874. Larceny, destruction, etc., of records by others. Every person not an officer such as is referred to in the preceding section, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding one year, or by a fine not exceeding one hundred dollars, or both.

History: En. Sec. 231, Pen. C. 1895; re-en. Sec. 8230, Rev. C. 1907. Cal. Pen. C. Sec. 114.

10875. Offering forged or false instruments to be recorded. Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within the state, which instrument, if genuine, might be filed, or registered, or recorded under any law of this state, or of the United States, is guilty of felony.

History: En. Sec. 232, Pen. C. 1895; re-en. Sec. 8231, Rev. C. 1907. Cal. Pen. C. Sec. 115.

10876. Adding names, etc., to the jury-lists. Every person who adds any names to the list of persons selected to serve as jurors for the county, either by placing the same in the jury-box or boxes, or otherwise, or extracts any name therefrom, or destroys the jury-box or boxes, or any of the pieces of paper containing the names of jurors, or mutilates or defaces such names so that the same cannot be read, or changes such names on the pieces of paper, except in cases allowed by law, is guilty of a felony.

History: En. Sec. 233, Pen. C. 1895; re-en. Sec. 8232, Rev. C. 1907. Cal. Pen. C. Sec. 116.

10877. Falsifying jury-lists, etc. Every officer or person required by law to certify to the list of persons selected as jurors, who maliciously, corruptly, or wilfully certifies to a false and incorrect list, or a list containing other names than those selected, or who, being required by law to write down the names placed on the certified lists on separate pieces of paper, does not write down and place in the jury-box or boxes, the same names that are on the certified list, and no more and no less than are on such lists, is guilty of a felony.

History: En. Sec. 234, Pen. C. 1895; re-en. Sec. 8233, Rev. C. 1907. Cal. Pen. C. Sec. 117.

CHAPTER 12.

PERJURY AND SUBORNATION OF PERJURY.

- Section** 10878. Perjury Defined.
 10879. Oath Defined.
 10880. Oath of Office.
 10881. Witnesses Before Legislative Assembly.
 10882. Penalty for Testifying Falsely.
 10883. Irregularity in Administering Oath.
 10884. Incompetency of Witness No Defense.
 10885. Knowledge of Materiality of Testimony Not Necessary.
 10886. Making Depositions, etc., When Deemed Complete.
 10887. Statement of That Which One Does Not Know to Be True.
 10888. Punishment of Perjury.
 10889. Subornation of Perjury.
 10890. Procuring the Execution of Innocent Person.

10878. Perjury defined. Every person who, having taken an oath that he will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which an oath may by law be administered, wilfully and contrary to such oath, states as true any material matter which he knows to be false, is guilty of perjury.

Related section: 4906.

History: En. Sec. 240, Pen. C. 1895; re-en. Sec. 8234, Rev. C. 1907. Cal. Pen. C. Sec. 118.

Note.—Earlier acts were section 89, p. 198, Bannack Statutes; re-enacted as section 101, p. 292, Codified Statutes 1871; re-enacted as section 101, Fourth Division

Revised Statutes 1879; re-enacted as section 109, Fourth Division Compiled Statutes 1887.

For text treatment of "Perjury," see Cal. Jur. and 21 R. C. L. 253.

False statement made under fear or compulsion as perjury, see note in 4 A. L. R. 1319.

10879. Oath defined. The term "oath," as used in the last section, includes an affirmation and every mode authorized by law of attesting the truth of that which is stated.

History: En. Sec. 241, Pen. C. 1895; re-en. Sec. 8235, Rev. C. 1907. Cal. Pen. C. Sec. 119.

10880. Oath of office. So much of an oath of office as relates to the future performance of official duties is not such an oath as is intended by the two preceding sections.

History: En. Sec. 242, Pen. C. 1895; re-en. Sec. 8236, Rev. C. 1907. Cal. Pen. C. Sec. 120.

10881. Witnesses before legislative assembly. Every person appearing before a committee of either house of the legislature for the purpose of testifying before, or giving or furnishing information to, such committee, with reference to any matter then pending before such committee, shall, upon the request of such committee, take an oath or affirmation, which such oath or affirmation shall be administered by the chairman, or acting chairman of such committee, and shall be in the following form: "You do solemnly swear (or affirm, as the case may be) that the evidence you shall give in the matter now pending before this committee, shall be the truth, the whole truth, and nothing but the truth, so help you God."

History: En. Sec. 1, Ch. 7, L. 1917.

10882. Penalty for testifying falsely. Every person who, having taken the oath or affirmation required by the preceding section, knowingly or wilfully, and contrary to such oath or affirmation, states as true any material matter which he knows to be false, is guilty of perjury.

History: En. Sec. 2, Ch. 7, L. 1917.

10883. Irregularity in administering oath. It is no defense to a prosecution for perjury that the oath was administered or taken in an irregular manner.

History: En. Sec. 243, Pen. C. 1895; re-en. Sec. 8237, Rev. C. 1907. Cal. Pen. C. Sec. 121.

10884. Incompetency of witness no defense. It is no defense to a prosecution for perjury that the accused was not competent to give the testimony, deposition, or certificate of which falsehood is alleged. It is sufficient that he did give such testimony or make such deposition or certificate.

History: En. Sec. 244, Pen. C. 1895; re-en. Sec. 8238, Rev. C. 1907. Cal. Pen. C. Sec. 122.

10885. Knowledge of materiality of testimony not necessary. It is no defense to a prosecution for perjury that the accused did not know the materiality of the false statement made by him; or that it did not, in fact, affect the proceeding in or for which it was made. It is sufficient that it was material, and might have been used to affect such proceeding.

History: En. Sec. 245, Pen. C. 1895; re-en. Sec. 8239, Rev. C. 1907. Cal. Pen. C. Sec. 123.

10886. Making depositions, etc., when deemed complete. The making of a deposition or certificate is deemed to be complete, within the provisions of this chapter, from the time when it is delivered by the accused to any other person, with the intent that it be uttered or published as true.

History: En. Sec. 246, Pen. C. 1895; re-en. Sec. 8240, Rev. C. 1907. Cal. Pen. C. Sec. 124.

10887. Statement of that which one does not know to be true. An unqualified statement of that which one does not know to be true is equivalent to a statement of that which one knows to be false.

History: En. Sec. 247, Pen. C. 1895; Cited or applied as section 8241, Revised re-en. Sec. 8241, Rev. C. 1907. Cal. Pen. C. Codes, in *Smith v. Collis*, 42 Mont. 350, 362, 112 Pac. 1070, Ann. Cas. 1912A, 1158. Sec. 125.

10888. Punishment of perjury. Perjury is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

History: En. Sec. 248, Pen. C. 1895; re-en. Sec. 8242, Rev. C. 1907. Cal. Pen. C. Sec. 126.

10889. Subornation of perjury. Every person who wilfully procures another person to commit perjury is guilty of subornation of perjury, and is punishable in the same manner as he would be if personally guilty of the perjury so procured.

History: En. Sec. 249, Pen. C. 1895; re-en. Sec. 8243, Rev. C. 1907. Cal. Pen. C. Sec. 127.

10890. Procuring the execution of innocent person. Every person who, by wilful perjury, or subornation of perjury, procures the conviction and execution of any innocent person, is punishable by death.

History: En. Sec. 90, p. 198, Bannack 1887; amd. Sec. 250, Pen. C. 1895; re-en. Stat.; amd. Sec. 102, p. 292, Cod. Stat. Sec. 8244, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 102, 4th Div. Rev. Stat. 128. 1879; re-en. Sec. 110, 4th Div. Comp. Stat.

CHAPTER 13.

FALSIFYING EVIDENCE.

- Section 10891. Offering False Evidence.
 10892. Deceiving a Witness.
 10893. Preparing False Evidence.
 10894. Destroying Evidence.
 10895. Preventing or Dissuading Witness From Attending.
 10896. Bribing Witness.
 10897. Receiving or Offering to Receive Bribes.

10891. Offering false evidence. Every person who, upon any trial, proceeding, inquiry, or investigation whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, or record, or other instrument in writing, knowing the same to have been forged, or fraudulently altered or antedated, is guilty of felony.

History: En. Sec. 260, Pen. C. 1895; re-en. Sec. 8245, Rev. C. 1907. Cal. Pen. C. Sec. 132.

10892. Deceiving a witness. Every person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token, or writing, to any witness, or any person about to be called as a witness, upon any trial, proceeding, inquiry, or investigation whatever, authorized by law, with intent to affect the testimony of such witness, is guilty of a misdemeanor.

History: En. Sec. 261, Pen. C. 1895; re-en. Sec. 8246, Rev. C. 1907. Cal. Pen. C. Sec. 133.

10893. Preparing false evidence. Every person guilty of preparing any false or antedated book, paper, record, instrument in writing, or other matter or thing, with intent to produce or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony.

History: En. Sec. 262, Pen. C. 1895; re-en. Sec. 8247, Rev. C. 1907. Cal. Pen. C. Sec. 134.

10894. Destroying evidence. Every person who, knowing that any book, paper, instrument in writing, or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation whatever, authorized by law, wilfully destroys or conceals the same, with intent thereby to prevent it from being produced, is guilty of a misdemeanor.

History: En. Sec. 263, Pen. C. 1895; re-en. Sec. 8248, Rev. C. 1907. Cal. Pen. C. Sec. 135.

10895. Preventing or dissuading witness from attending. Every person who wilfully prevents or dissuades any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is guilty of a misdemeanor.

History: En. Sec. 264, Pen. C. 1895; Paul Ry. Co., 54 Mont. 495, 496, 172 Pac. re-en. Sec. 8249, Rev. C. 1907. Cal. Pen. C. 330.
Sec. 136.

The action of a party in secreting and forcibly keeping in hiding a witness of his adversary until the trial was concluded, and thus suppressing material testimony, constituted a misdemeanor under this section. *Buntin v. Chicago, Milwaukee & St.*

Criminality of person preventing attendance of witness not subpoenaed, see note in *Ann. Cas. 1912C, 517.*

Attempt made in good faith to dissuade witness from testifying as constituting criminal offense, see note in *13 Ann. Cas. 579.*

10896. Bribing witness. Every person who gives, or offers or promises to give, to any witness, or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced, or who attempts by any other means fraudulently to induce any person to give false or withhold true testimony, is guilty of a felony.

History: En. Sec. 265, Pen. C. 1895; re-en. Sec. 8250, Rev. C. 1907. Cal. Pen. C. Sec. 137.

10897. Receiving or offering to receive bribes. Every person who is a witness, or is about to be called as such, who receives, or offers to receive, any bribe, upon any understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial or proceeding upon which his testimony is required, is guilty of felony.

History: En. Sec. 266, Pen. C. 1895; re-en. Sec. 8251, Rev. C. 1907. Cal. Pen. C. Sec. 138.

CHAPTER 14.

CRIMINAL CONSPIRACY AND ILLEGAL PRACTICES IN RESTRAINT OF TRADE
—TRUSTS—DISCRIMINATIONS—POOLING GRAIN WAREHOUSES—
DESTROYING FOOD.

- Section 10898. Criminal Conspiracy Defined and Punishment Fixed.
 10899. No Other Conspiracies Punishable Criminally.
 10900. Overt Act, When Necessary.
 10901. Unlawful Trusts and Monopolies—Penalty.
 10902. Certain Agreements Between Laborers Excepted.
 10903. Persons Not to Be Excused From Testifying.
 10904. Unfair Discrimination in Purchase Price of Commodities.
 10905. Prosecutions by Attorney-General.
 10906. Penalty for Violation of Law.
 10907. Act Is Cumulative.
 10908. What Constitutes Unfair Competition or Discrimination in Sale of Commodities.
 10909. Prosecutions by Attorney-General.
 10910. Penalty for Violation of Law.
 10911. Act Is Cumulative.
 10912. Pooling in Purchase, Sale, or Handling of Grain by Warehousemen.
 10913. Penalty for Violation of Law—Notice to Grain Inspector.
 10914. Destruction of Food in Restraint of Trade.
 10915. Penalty for Violation of Act.

10898. Criminal conspiracy defined and punishment fixed. If two or more persons conspire:

1. To commit any crime;
 2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime;
 3. Falsely to move or maintain any suit, action, or proceeding;
 4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses; or,
 5. To commit any act injurious to the public health, to public morals, or for the perversion or obstruction of justice, or due administration of the laws,
- they are punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or both.

History: En. Sec. 109, p. 204, Bannack Stat.; re-en. Sec. 123, p. 297, Cod. Stat. 1871; re-en. Sec. 123, 4th Div. Rev. Stat. 1879; re-en. Sec. 132, 4th Div. Comp. Stat. 1887; amd. Sec. 320, Pen. C. 1895; re-en. Sec. 8284, Rev. C. 1907. Cal. Pen. C. Sec. 182.

An indictment for a conspiracy to cheat and defraud a county must allege the means by which the conspiracy was to be accomplished. An allegation that the defendants conspired "to cheat and defraud" is not sufficient. *Territory v. Carland*, 6 Mont. 14, 15, 9 Pac. 578.

Where, at the time of the making of an agreement to assign certain mining leases, options, and bonds, the assignor had made explorations along the vein, and had con-

cluded that an adjoining mine owner was trespassing on a vein having its apex within the boundaries of the mine leased and assigned, either the assignor or the assignee might have prosecuted such alleged trespass. The fact that the assignment required the assignor to prosecute such action for the benefit of the assignee, who agreed to pay the expenses of the litigation, did not render the contract void as a conspiracy under this section. *Finley v. Heinze*, 28 Mont. 548, 567, 73 Pac. 123.

For text treatment of "Conspiracy," see Cal. Jur. and 5 R. C. L. 1059.

Combination in restraint of trade as constituting criminal conspiracy, see notes in Ann. Cas. 1913E, 603, Ann. Cas. 1917B, 1017.

10899. No other conspiracies punishable criminally. No conspiracies other than those enumerated in the preceding section are punishable criminally.

History: En. Sec. 322, Pen. C. 1895; re-en. Sec. 8286, Rev. C. 1907. Cal. Pen. C. Sec. 183.

10900. Overt act, when necessary. No agreement, except to commit a felony upon the person of another, or to commit arson or burglary, amounts to a conspiracy, unless some act, besides such agreement, be done to effect the object thereof, by one or more of the parties to the agreement.

Related section: 10509.

re-en. Sec. 8287, Rev. C. 1907. Cal. Pen.

History: En. Sec. 323, Pen. C. 1895; C. Sec. 184.

10901. Unlawful trusts and monopolies—Penalty. Every person, corporation, stock company, or association of persons in this state, who, directly or indirectly, combine or form what is known as a trust, or make any contract with any person or persons, corporation, or stock companies, foreign or domestic, through their stockholders, directors, officers, or in any manner whatever, for the purpose of fixing the price or regulating the production of any article of commerce—the phrase “articles of commerce,” as herein employed, shall and does include not only those articles which are generally, popularly, and legally known as articles of commerce, but also gas, water, water power, electric light, and electric power, for whatever purpose used or employed—or of the product of the soil for consumption by the people, or to create or carry out any restriction in trade, to limit productions, or increase or reduce the price of merchandise or commodities, or to prevent competition in merchandise or commodities, or to fix a standard or figure whereby the price of any article of merchandise, commerce, or product, intended for sale, use, or consumption, will be in any way controlled, or to create a monopoly in the manufacture, sale, or transportation of any such article, or to enter into an obligation by which they shall bind others or themselves not to manufacture, sell, or transport any such articles below a common standard or figure, or by which they agree to keep such article or transportation at a fixed or graduated figure, or by which they settle the price of such article, so as to preclude unrestricted competition, is punishable by imprisonment in the county jail for a period not less than twenty-four hours or more than one year, or by fine not exceeding twenty-five thousand dollars, or both.

History: En. Sec. 1, Ch. 97, L. 1909.

For text treatment of “Monopolies and Combinations,” see Cal. Jur. and 19 R. C. L. 1.

Test of legality of combinations in restraint of trade, see notes in 2 Ann. Cas. 339; 9 Ann. Cas. 906; Ann. Cas. 1916D, 649.

10902. Certain agreements between laborers excepted. The provisions of this act do not apply to any arrangements, agreement, or combination between laborers, made with the object of lessening the number of hours of labor or increasing wages.

History: En. Sec. 2, Ch. 97, L. 1909.

Anti-trust statutes as applicable to com-

binations to control price of personal services, see notes in 8 Ann. Cas. 721; 17 Ann. Cas. 752.

10903. Persons not to be excused from testifying. No person shall be excused from testifying in any prosecution brought pursuant to the

provisions of this act, but no person testifying for the prosecution shall be punished or prosecuted in any manner whatsoever for any act committed by him personally, as to which he is called upon to testify in a prosecution against any person or corporation, stock company, or association.

History: En. Sec. 3, Ch. 97, L. 1909.

10904. Unfair discrimination in purchase price of commodities. Any person, firm, company, association, or corporation, either domestic or foreign, doing business in the state of Montana, and engaged in the business of buying, selling, producing, manufacturing, or distributing any commodity or product in general use, that shall, for the purpose of creating a monopoly or destroying the business of a regularly established dealer in such commodity or product, or to prevent the competition of any person, firm, company, association, or corporation who in good faith intends or attempts to become such dealer, shall discriminate between different persons, sections, communities, or parts of the state of Montana, by purchasing any commodity or product in general use at a higher rate or price in one section, city, or community, or any portion thereof, than such person, firm, company, association, or corporation pays for such commodity or product in another section, city, or community, after making due allowance for the difference in the actual cost of transportation from the point of purchase to the point of manufacture, sale, storage, or distribution, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful.

History: En. Sec. 1, Ch. 8, L. 1913; amd. Sec. 1, Ch. 80, L. 1917.

This section seeks to define and provide punishment for unfair discrimination in buying and not in selling, and before a conviction can be sustained, it must be

made to appear that the discriminatory rate was paid intentionally for the purpose of stifling competition, and not merely that a higher price was paid. *State v. Rocky Mountain Elevator*, 52 Mont. 487, 491, 158 Pac. 818.

10905. Prosecutions by attorney-general. If complaint shall be made to the attorney-general that any corporation is guilty of unfair discrimination, as defined by this act, he shall forthwith investigate such complaint, and for that purpose he shall subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents, and if, in his opinion, sufficient grounds exist therefor, he shall prosecute an action in the name of the state in the proper court to annul the charter or revoke the permit of such corporation, as the case may be, and to permanently enjoin such corporation from doing business in this state; and if, in such action, the court shall find that such corporation is guilty of unfair discrimination, as defined by this act, such court shall annul the charter or revoke the permit of such corporation, and may permanently enjoin it from transacting business in this state.

History: En. Sec. 2, Ch. 8, L. 1913; amd. Sec. 2, Ch. 80, L. 1917.

10906. Penalty for violation of law. Any person, firm, or corporation violating the provisions of section 10904 of this code, whether as principal or agent, shall, upon conviction thereof, be fined not less than two hundred dollars nor more than ten thousand dollars for each offense.

History: En. Sec. 3, Ch. 8, L. 1913; amd. Sec. 3, Ch. 80, L. 1917.

10907. Act is cumulative. Nothing in this act shall be construed as repealing any other act or part of an act, but the remedies herein provided shall be cumulative to all other remedies provided by law.

History: En. Sec. 4, Ch. 80, L. 1917.

10908. What constitutes unfair competition or discrimination in sale of commodities. Any person, firm, or corporation, foreign or domestic, doing business in the state of Montana, and engaged in the production, manufacture, or distribution of any commodity in general use, that intentionally, for the purpose of destroying the competition of any regularly established dealer in such commodity, or to prevent the competition of any person, firm, or corporation who in good faith intends and attempts to become such dealer, shall discriminate between different sections, communities, or parts of this state, by selling such commodity at a lower rate or price in one section, city, or community, or any portion thereof, than such person, firm, or corporation, foreign or domestic, charges for such commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution, and freight rates therefrom, shall be deemed guilty of unfair discrimination.

History: En. Sec. 1, Ch. 7, L. 1913.

1913, in *State v. Rocky Mountain Elevator Co.*, 52 Mont. 487, 492, 158 Pac. 818.

Act referred to as chapter 7, Laws of

10909. Prosecutions by attorney-general. If complaint shall be made to the attorney-general that any corporation is guilty of unfair discrimination as defined by this act, he shall forthwith investigate such complaint, and for that purpose he shall subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents, and if, in his opinion, sufficient grounds exist therefor, he shall prosecute an action in the name of the state in the proper court to annul the charter or revoke the permit of such corporation, as the case may be, and to permanently enjoin such corporation from doing business in this state, and if, in such action, the court shall find that such corporation is guilty of unfair discrimination as defined by this act, such court shall annul the charter or revoke the permit of such corporation, and may permanently enjoin it from transacting business in this state.

History: En. Sec. 2, Ch. 7, L. 1913.

10910. Penalty for violation of law. Any person, firm, or corporation violating the provisions of section 10908 of this code, whether as principal or agent, shall, upon conviction thereof, be fined not less than two hundred dollars nor more than ten thousand dollars for each offense.

History: En. Sec. 3, Ch. 7, L. 1913.

10911. Act is cumulative. Nothing in this act shall be construed as repealing any other act or part of an act, but the remedies herein provided shall be cumulative to all other remedies provided by law.

History: En. Sec. 4, Ch. 7, L. 1913.

10912. Pooling in purchase, sale, or handling of grain by warehousemen. It shall be unlawful for any person, firm, or corporation engaged in the buying, selling, or handling of grain in any public local warehouse in this state, or for the local agent in charge of such warehouse, or any other

agent of the person, firm, or corporation operating the same, to enter into any contract, agreement, combination, or understanding with any other person, firm, or corporation, owning or operating any other public local warehouse at any railway station, its agent or agents, whereby the amount of grain to be received or handled by said warehouses at such station or stations shall be equalized or pooled between said warehouses, or whereby the profits or earnings derived from said warehouses shall be divided or pooled or apportioned in any manner, or whereby the price to be paid for any kind of grain, at such station, shall be fixed or in any manner affected; and each day of the continuance of any such agreement, contract, or understanding shall constitute a separate offense.

History: En. Sec. 1, Ch. 69, L. 1915.

10913. Penalty for violation of law—Notice to grain inspector. Any person, firm, or corporation, or any agent of any person, firm, or corporation, who shall violate the provisions of this act, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars or more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days or more than six months, or by both such fine and imprisonment. It shall be the duty of the court before whom a conviction is had to, within ten days after judgment of conviction is rendered, forward a certified copy of said judgment of conviction to the chief grain inspector; and it is hereby made the duty of the chief grain inspector to revoke and annul any license heretofore issued to such person; and in such case no new license shall be granted to the person whose license is revoked, nor to any one either directly or indirectly engaged with him in said business, for a period of one year.

History: En. Sec. 2, Ch. 69, L. 1915.

10914. Destruction of food in restraint of trade. It shall be unlawful for any person, firm, or corporation to destroy, or to withhold from sale for a period of time which makes it necessary to destroy, in restraint of trade, any fish, fowl, animal, vegetable, or other stuff, products, or articles, which are customary food, or which are proper food for human beings, and are in fit sanitary condition to be used as such.

History: En. Sec. 1, Ch. 16, L. 1919.

10915. Penalty for violation of act. Every person or firm or the manager or employee of every corporation violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days nor more than six months, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 16, L. 1919.

CHAPTER 15.

OTHER MISCELLANEOUS OFFENSES AGAINST PUBLIC JUSTICE.

- Section 10916.** Officer Refusing to Receive or Arrest Parties Charged With Crime.
10917. Public Administrator, Neglect or Violation of Duty by.
10918. Administrator, etc., Must File Report—Penalty.
10919. Receiving Fee for Services in Arresting Fugitives.
10920. Delaying to Take Person Arrested Before a Magistrate.
10921. Making Arrest, etc., Without Lawful Authority.

- 10922. Inhumanity to Prisoners.
- 10923. Confessions Obtained by Duress or Inhuman Practices.
- 10924. Violation of Law a Misdemeanor—Penalty.
- 10925. Nonresident Deputies.
- 10926. Personating Officer.
- 10927. Penalty for Violation of Act.
- 10928. Resisting Public Officers in the Discharge of Their Duties.
- 10929. Assault, etc., by Officers, Under Color of Authority.
- 10930. Refusing to Aid Officers in Arrest, etc.
- 10931. Compounding Crimes.
- 10932. Debtor Fraudulently Concealing His Property.
- 10933. Defendant Fraudulently Concealing His Property.
- 10934. Fraudulent Pretenses Relative to Birth of Infant.
- 10935. Substituting One Child for Another.
- 10936. Common Barratry Defined—How Punished.
- 10937. What Proof Is Required.
- 10938. Misconduct by Attorneys.
- 10939. Buying Demands or Suit by an Attorney.
- 10940. Attorneys Forbidden to Defend Prosecutions Carried on by Their Partners or Formerly by Themselves.
- 10941. Limitation of Preceding Section.
- 10942. Grand Juror Acting After Challenge Has Been Allowed.
- 10943. Bribing Members of City or Town Councils, Boards of County Commissioners, or Trustees.
- 10944. Criminal Contempts.
- 10945. False Certificates by Public Officers.
- 10946. Disclosing Fact of Indictment Having Been Found.
- 10947. Disclosing What Transpired Before the Grand Jury.
- 10948. Maliciously Procuring Search-warrant.
- 10949. Unauthorized Communication With Convict.
- 10950. Omission of Duty by Public Officer.
- 10951. Offense for Which No Penalty Is Prescribed.
- 10952. Oppression and Injury by an Officer.

10916. Officer refusing to receive or arrest parties charged with crime.

Every sheriff, coroner, keeper of a jail, constable, or other peace officer, who wilfully refuses to receive or arrest any person charged with a criminal offense, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years.

History: En. Sec. 107, p. 203, Bannack 1887; amd. Sec. 270, Pen. C. 1895; re-en. Stat.; re-en. Sec. 119, p. 296, Cod. Stat. Sec. 8552, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 119, 4th Div. Rev. Stat. 142.
1879; re-en. Sec. 128, 4th Div. Comp. Stat.

10917. Public administrator, neglect or violation of duty by. Every person holding the office of public administrator, who wilfully refuses or neglects to perform the duties thereof, or who violates any provision of law relating to his duties or the duties of his office, for which some other punishment is not prescribed, is punishable by fine not exceeding five thousand dollars, or imprisonment in the county jail not exceeding two years, or both.

History: En. Sec. 271, Pen. C. 1895; re-en. Sec. 8253, Rev. C. 1907. Cal. Pen. C. Sec. 143.

10918. Administrator, etc., must file report—Penalty. Any administrator, executor, or guardian, who shall fail to make, render, or file any account, report, or statement in any estate in his charge within the time required by him by law, may be, by the court within which the estate is being administered, summarily punished by a fine in any sum not exceeding one hundred dollars, and may be committed to jail until payment be made, and his letters may be by the court summarily revoked.

History: En. Sec. 272, Pen. C. 1895; re-en. Sec. 8254, Rev. C. 1907.

10919. Receiving fee for services in arresting fugitives. Every person who violates any of the provisions of section 12428 of this code is guilty of a misdemeanor.

History: En. Sec. 273, Pen. C. 1895; re-en. Sec. 8255, Rev. C. 1907. Cal. Pen. C. Sec. 144.

10920. Delaying to take person arrested before a magistrate. Every public officer or other person, having arrested any person upon a criminal charge, who wilfully delays to take such person before a magistrate having jurisdiction, to take his examination, is guilty of a misdemeanor.

History: En. Sec. 274, Pen. C. 1895; re-en. Sec. 8256, Rev. C. 1907. Cal. Pen. C. Sec. 145.

10921. Making arrest, etc., without lawful authority. Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, arrests any person, or detains him against his will, or seizes or levies upon any property, or dispossesses any one of his lands or tenements, without a regular process or lawful authority therefor, is guilty of a misdemeanor.

History: En. Sec. 275, Pen. C. 1895; re-en. Sec. 8257, Rev. C. 1907. Cal. Pen. C. Sec. 146.

10922. Inhumanity to prisoners. Every officer who is found guilty of wilful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by fine not exceeding two thousand dollars, and by removal from office.

History: En. Sec. 95, p. 200, Bannack 1887; amd. Sec. 276, Pen. C. 1895; re-en. Stat.; amd. Sec. 107, p. 294, Cod. Stat. Sec. 8258, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 107, 4th Div. Rev. Stat. 147.
1879; re-en. Sec. 115, 4th Div. Comp. Stat.

10923. Confessions obtained by duress or inhuman practices. It shall be unlawful for any sheriff, constable, police officer, or any persons charged with the custody of any one accused of crime, of whatever nature, or with the violation of a municipal ordinance, to frighten or attempt to frighten by threats, torture, or attempt to torture, or resort to any means of an inhuman nature, or practice what is commonly known as the "third degree" in order to secure a confession from such person.

History: En. Sec. 1, Ch. 89, L. 1911.

10924. Violation of law a misdemeanor—Penalty. A violation of the provisions of the preceding section shall constitute a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 89, L. 1911.

10925. Nonresident deputies. It shall be unlawful for any person or persons, company, association, or corporation to bring or import into this state, or to in anywise aid in bringing or importing into this state, any person or persons, or association of persons, for the purpose of discharging the duties devolving upon sheriffs, deputy sheriffs, marshals, policemen, or constables or peace officers in the protection or preservation of public

or private property, or in the punishment of any person violating the criminal laws of this state.

History: En. Sec. 4599, Pol. C. 1895; re-en. Sec. 3125, Rev. C. 1907.

10926. Personating officer. Any person or persons who shall in this state, without due authority, exercise, or attempt to exercise, the functions of or hold himself or themselves out to any one as a deputy sheriff, marshal, or policeman, constable, or peace officer, shall be deemed guilty of a felony, and, upon conviction thereof, shall, in the discretion of the court or jury, be imprisoned in the penitentiary for any period not less than one year nor more than three years, to which may be added a fine of not less than one hundred dollars nor more than five hundred dollars, together with the costs of prosecution.

History: En. Sec. 4600, Pol. C. 1895; re-en. Sec. 3126, Rev. C. 1907.

10927. Penalty for violation of act. Any person, company, or association, who shall violate any of the provisions of this act, shall, upon conviction, be deemed guilty of a felony, and shall be punished by imprisonment in the penitentiary for a term of not less than one year nor more than three years.

History: En. Sec. 4601, Pol. C. 1895; re-en. Sec. 3127, Rev. C. 1907.

10928. Resisting public officers in the discharge of their duties. Every person who wilfully resists, delays, or obstructs any public officer, in the discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years.

Related section: 10825.

Cited or applied as section 8259, Revised

History: En. Sec. 277, Pen. C. 1895; Codes, in State v. Bradshaw, 53 Mont. 96, re-en. Sec. 8259, Rev. C. 1907. Cal. Pen. 99, 161 Pac. 710. C. Sec. 148.

10929. Assault, etc., by officers, under color of authority. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by fine not exceeding five thousand dollars, and imprisonment in the county jail not exceeding five years.

History: En. Sec. 278, Pen. C. 1895; re-en. Sec. 8260, Rev. C. 1907. Cal. Pen. C. Sec. 149.

10930. Refusing to aid officers in arrest, etc. Every male person above the age of eighteen years, who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist in taking or arresting any person against whom there may be issued any process, or by neglecting to aid and assist in retaking any person who, after being arrested or confined, may have escaped from such arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any sheriff, deputy sheriff, coroner, constable, judge, or justice of the peace, or other officer concerned in the administration of justice, is punishable by fine of not less than fifty nor more than one thousand dollars.

History: En. Sec. 133, p. 210, Bannack 1871; re-en. Sec. 150, 4th Div. Rev. Stat. Stat.; re-en. Sec. 150, p. 304, Cod. Stat. 1879; re-en. Sec. 175, 4th Div. Comp. Stat.

1887; amd. Sec. 279, Pen. C. 1895; re-en. Sec. 8261, Rev. C. 1907. Cal. Pen. C. Sec. 150.

Construed with other sections to the effect that a county is not liable for services rendered as a member of a sheriff's posse comitatus. *Sears v. Gallatin County*, 20 Mont. 462, 52 Pac. 204, 40 L. R. A. 405.

Members of the sheriff's posse are not officers, nor do they tender official serv-

ices. *Sears v. Gallatin County*, 20 Mont. 462, 465, 52 Pac. 204, 40 L. R. A. 405.

The state, in consideration of its protection extended, may impose upon its inhabitants the duty of rendering it services, at least in an emergency requiring the apprehension of a criminal, or one charged with the commission of a public offense. *Sears v. Gallatin County*, 20 Mont. 462, 467, 52 Pac. 204, 40 L. R. A. 405.

10931. Compounding crimes. Every person who, having knowledge of the actual commission of a crime, takes money or property of another, or any gratuity or reward, or any engagement, or promise thereof, upon any agreement or understanding to compound or conceal such crime, or to abstain from any prosecution thereof, or to withhold any evidence thereof, except in cases provided for by law, in which crimes may be compromised by leave of court, is punishable as follows:

1. By imprisonment in the state prison not exceeding five years, or in a county jail not exceeding one year, where the crime was punishable by death or imprisonment in the state prison for life.

2. By imprisonment in the state prison not exceeding three years, or in the county jail not exceeding six months, where the crime was punishable by imprisonment in the state prison for any other term than for life.

3. By imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars, where the crime was a misdemeanor.

History: Ap. p. Sec. 108, p. 203, *Banack Stat.*; re-en. Sec. 120, p. 296, *Cod. Stat.* 1871; re-en. Sec. 120, 4th Div. Rev. Stat. 1879; re-en. Sec. 129, 4th Div. Comp.

Stat. 1887; en. Sec. 280, Pen. C. 1895; re-en. Sec. 8262, Rev. C. 1907. Cal. Pen. C. Sec. 153.

10932. Debtor fraudulently concealing his property. Every debtor who fraudulently removes his property or effects out of this state, or fraudulently sells, conveys, assigns, or conceals his property, with intent to defraud, hinder, or delay his creditors of their rights, claims, or demands, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or both.

History: En. Sec. 281, Pen. C. 1895; re-en. Sec. 8263, Rev. C. 1907. Cal. Pen. C. Sec. 154.

10933. Defendant fraudulently concealing his property. Every person against whom an action is pending, or against whom a judgment has been rendered for the recovery of any personal property, who fraudulently conceals, sells, or disposes of such property, with intent to hinder, delay, or defraud the person bringing such action or recovering such judgment, or with such intent removes such property beyond the limits of the county in which it may be at the time of the commencement of such action or the rendering of such judgment, is punishable as provided in the preceding section.

History: En. Sec. 282, Pen. C. 1895; re-en. Sec. 8264, Rev. C. 1907. Cal. Pen. C. Sec. 155.

10934. Fraudulent pretenses relative to birth of infant. Every person who fraudulently produces an infant, falsely pretending it to have been

born of any parent whose child would be entitled to inherit any real estate, or to receive a share of any personal estate, with intent to intercept the inheritance of any such real estate, or the distribution of any such personal estate, from any person lawfully entitled thereto, is punishable by imprisonment in the state prison not exceeding ten years.

History: En. Sec. 283, Pen. C. 1895; re-en. Sec. 8265, Rev. C. 1907. Cal. Pen. C. Sec. 156.

10935. Substituting one child for another. Every person to whom an infant has been confided for nursing, education, or any other purpose, who, with intent to deceive any parent or guardian of such child, substitutes or produces to such parent or guardian another child in the place of the one so confided, is punishable by imprisonment in the state prison not exceeding seven years.

History: En. Sec. 284, Pen. C. 1895; re-en. Sec. 8266, Rev. C. 1907. Cal. Pen. C. Sec. 157.

10936. Common barratry defined—How punished. Common barratry is the practice of exciting groundless judicial proceedings, and is punishable by imprisonment in the county jail not exceeding six months, and by fine not exceeding five hundred dollars.

History: En. Sec. 285, Pen. C. 1895; re-en. Sec. 8267, Rev. C. 1907. Cal. Pen. C. Sec. 158.

10937. What proof is required. No person can be convicted of common barratry except upon proof that he has excited suits or proceedings at law in at least three instances, and with a corrupt and malicious intent to vex and annoy.

History: En. Sec. 286, Pen. C. 1895; re-en. Sec. 8268, Rev. C. 1907. Cal. Pen. C. Sec. 159.

10938. Misconduct by attorneys. Every attorney who, whether as attorney or as counselor, either:

1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party; or,
 2. Wilfully delays his client's suit with a view to his own gain; or,
 3. Wilfully receives any money or allowance for or on account of any money which he has not laid out or become answerable for,
- is guilty of a misdemeanor.

History: En. Sec. 287, Pen. C. 1895; re-en. Sec. 8269, Rev. C. 1907. Cal. Pen. C. Sec. 160.

10939. Buying demands or suit by an attorney. Every attorney who, either directly or indirectly, buys, or is interested in buying, any evidence of debt or thing in an action, with intent to bring suit thereon, is guilty of a misdemeanor.

History: En. Sec. 288, Pen. C. 1895; re-en. Sec. 8270, Rev. C. 1907. Cal. Pen. C. Sec. 161.

10940. Attorneys forbidden to defend prosecutions carried on by their partners or formerly by themselves. Every attorney who, directly or indirectly, advises in relation to, or aids, or promotes the defense of any action or proceeding in any court, the prosecution of which is carried on, aided, or promoted by any person as county attorney, or other public

prosecutor, with whom such person is directly or indirectly connected as a partner; or who, having himself prosecuted, or in any manner aided or promoted any action or proceeding in any court as county attorney, or other public prosecutor, afterwards, directly or indirectly, advises in relation to, or takes any part in the defense thereof, as attorney or otherwise, or who takes or receives any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatever having relation to the defense thereof, is guilty of a misdemeanor, and, in addition to the punishment prescribed therefor, forfeits his license to practice law.

History: En. Sec. 289, Pen. C. 1895; re-en. Sec. 8271, Rev. C. 1907. Cal. Pen. C. Sec. 162.

10941. Limitation of preceding section. The preceding section does not prohibit an attorney from defending himself in person, as attorney or counsel, when prosecuted, either civilly or criminally.

History: En. Sec. 290, Pen. C. 1895; re-en. Sec. 8272, Rev. C. 1907. Cal. Pen. C. Sec. 163.

10942. Grand juror acting after challenge has been allowed. Every grand juror who, with a knowledge that a challenge interposed against him by a defendant has been allowed, is present at, or takes part, or attempts to take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, is guilty of a misdemeanor.

History: En. Sec. 291, Pen. C. 1895; re-en. Sec. 8273, Rev. C. 1907. Cal. Pen. C. Sec. 164.

10943. Bribing members of city or town councils, boards of county commissioners, or trustees. Every person who gives or offers a bribe to any member of any city or town council, board of county commissioners, or board of trustees of any county, city, or corporation, with intent to corruptly influence such member in his action on any matter or subject pending before the body of which he is a member, and every member of any of the bodies mentioned in this section who receives, or offers to receive, any such bribe, is punishable by imprisonment in the state prison for a term not less than one nor more than fourteen years, and is disqualified from holding any office in this state.

History: En. Sec. 292, Pen. C. 1895; re-en. Sec. 8274, Rev. C. 1907. Cal. Pen. C. Sec. 165.

10944. Criminal contempts. Every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

1. Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in immediate view and presence of the court, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Behavior of the like character committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

3. Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

4. Wilful disobedience of any process or order lawfully issued by any court.

5. Resistance wilfully offered by any person to the lawful order or process of any court.

6. The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question.

7. The publication of a false or grossly inaccurate report of the proceedings of any court.

8. Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of such court, any affidavit, or testimony, or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon such prisoner, except as provided in this code.

Related section: 11584.

History: En. Sec. 293, Pen. C. 1895; re-en. Sec. 8275, Rev. C. 1907. Cal. Pen. C. Sec. 166.

The power to punish for contempt is inherent in the courts of record of this state, is a part of their very life, and a necessary incident to the exercise of judicial functions. It exists independently of statutes, and cannot be taken away or so far abridged by the legislature as to leave such courts without proper and vigorous means of protecting themselves from insult or actually enforcing their lawful orders. *Territory v. Murray*, 7 Mont. 251, 257, 15 Pac. 145; *State ex rel. B. & M. Co. v. Judges*, 30 Mont. 193, 200, 76 Pac. 10; *In re Mettler*, 50 Mont. 299, 302, 146 Pac. 747; *State ex rel. Metcalf v. District Court*, 52 Mont. 46, 48, 155 Pac. 278, Ann. Cas. 1918A, 985, L. R. A. 1916F, 132.

The publication of an editorial referring to decisions of the supreme court in certain cases, and charging the court with dealing out injustice in such cases and entering into a "dirty deal" in order to do so, constitutes a report of the proceedings of a court within subdivision 7 of this section. *State ex rel. Haskell v. Faulds*, 17 Mont. 140, 142, 42 Pac. 285.

Although the publication of a contemptuous report of the proceedings of a court is punishable as a misdemeanor, this does not deprive the court of the power to punish such act as a contempt. *State ex rel. Haskell v. Faulds*, 17 Mont. 140, 148, 42 Pac. 285.

One guilty of a contempt of court by a

wilful disobedience of an injunction order lawfully issued, concerning the use of water, may be punished under this section as for a misdemeanor. *State ex rel. Flynn v. District Court*, 24 Mont. 33, 35, 60 Pac. 493.

Proceedings in contempt are of a criminal nature. *State ex rel. B. & M. Co. v. Judges*, 30 Mont. 193, 198, 76 Pac. 10.

Acts constituting contempts are referred to in this section, which are not mentioned in section 9908. *State ex rel. Metcalf v. District Court*, 52 Mont. 46, 48, 155 Pac. 278, Ann. Cas. 1918A, 985, L. R. A. 1916F, 132.

The publication of an article in a newspaper, in effect charging a district judge with wrongdoing in connection with his decision in a cause disposed of by him six months before, did not constitute contempt of court under this section, but fell within the constitutional provision guaranteeing the liberty of the press, for the violation of which privilege the law provides redress for libel by civil, or punishment by criminal, action. *State ex rel. Metcalf v. District Court*, 52 Mont. 46, 54, 155 Pac. 278, Ann. Cas. 1918A, 985, L. R. A. 1916F, 132.

Distinction between civil and criminal contempt, see notes in 21 Ann. Cas. 907; Ann. Cas. 1916B, 959.

Violation of injunction by person not a party thereto as criminal contempt, see notes in 3 Ann. Cas. 28; 20 Ann. Cas. 118.

Is proceeding for contempt for violation of an injunction civil or criminal, see notes in 13 L. R. A. (N. S.) 591; 34 L. R. A. (N. S.) 874; 42 L. R. A. (N. S.) 793.

10945. False certificates by public officers. Every public officer or board authorized by law to make or give any certificate or other writing, who makes and delivers as true any such certificate or writing, containing statements which he knows to be false, is guilty of a misdemeanor.

History: En. Sec. 294, Pen. C. 1895; re-en. Sec. 8276, Rev. C. 1907. Cal. Pen. C. Sec. 167.

Cited or applied as section 294, Penal Code, in *In re Terrett*, 34 Mont. 325, 335, 86 Pac. 266.

10946. Disclosing fact of indictment having been found. Every grand juror, county attorney, clerk, judge, or other officer who, except by issuing or in executing a warrant of arrest, wilfully discloses the fact of an indictment having been found or information filed for a felony, until the defendant has been arrested, is guilty of a misdemeanor.

Related sections: 11628, 11867.

re-en. Sec. 8277, Rev. C. 1907. Cal. Pen. C.

History: En. Sec. 295, Pen. C. 1895; Sec. 168.

10947. Disclosing what transpired before the grand jury. Every grand juror who, except when required by a court, wilfully discloses any evidence adduced before the grand jury, or anything which he himself, or any other member of the grand jury, may have said, or in what manner he or any other member of the grand jury may have voted on a matter before them, is guilty of a misdemeanor.

History: En. Sec. 296, Pen. C. 1895; re-en. Sec. 8278, Rev. C. 1907. Cal. Pen. C. Sec. 169.

10948. Maliciously procuring search-warrant. Every person who maliciously and without probable cause procures a search-warrant, or warrant of arrest, to be issued and executed, is guilty of a misdemeanor.

Related section: 12394.

re-en. Sec. 8279, Rev. C. 1907. Cal. Pen. C.

History: En. Sec. 297, Pen. C. 1895; Sec. 170.

10949. Unauthorized communication with convict. Every person, not authorized by law, who, without the consent of the warden or other officer in charge of the state prison, communicates with any convict therein, or brings into or conveys out of the state prison any letter or writing to or from any convict, is guilty of a misdemeanor.

History: En. Sec. 298, Pen. C. 1895; re-en. Sec. 8280, Rev. C. 1907. Cal. Pen. C. Sec. 171.

10950. Omission of duty by public officer. Every wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, or any neglect of duty, where no special provision has been made for the punishment of such delinquency, is punishable as a misdemeanor.

History: En. Sec. 299, Pen. C. 1895; re-en. Sec. 8281, Rev. C. 1907. Cal. Pen. C. Sec. 176.

10951. Offense for which no penalty is prescribed. When an act or omission is declared by a statute to be a public offense, and no penalty for the offense is prescribed in any statute, the act or omission is punishable as a misdemeanor.

Related section: 10725.

re-en. Sec. 8282, Rev. C. 1907. Cal. Pen.

History: En. Sec. 300, Pen. C. 1895; C. Sec. 177.

10952. Oppression and injury by an officer. Every officer who, under color of authority, oppresses, wrongs, or injures any person, is guilty of a misdemeanor.

History: En. Sec. 301, Pen. C. 1895; re-en. Sec. 8283, Rev. C. 1907.

CHAPTER 16.

HOMICIDE.

- Section 10953. Murder Defined.
 10954. Malice Defined—Express or Implied.
 10955. Degrees of Murder.
 10956. Repealing Clause.
 10957. Punishment for Murder.
 10958. Petit Treason Abolished.
 10959. Manslaughter—Voluntary and Involuntary.
 10960. Punishment for Manslaughter.
 10961. Deceased Must Die Within a Year and a Day.
 10962. Proof of Corpus Delicti.
 10963. Excusable Homicide.
 10964. Justifiable Homicide by Public Officers.
 10965. Justifiable Homicide by Other Persons.
 10966. Bare Fear Not to Justify Killing.
 10967. Justifiable and Excusable Homicide Not Punishable.

10953. Murder defined. Murder is the unlawful killing of a human being with malice aforethought.

History: En. Sec. 15, p. 178, Bannack Stat.; re-en. Sec. 18, p. 273, Cod. Stat. 1871; re-en. Sec. 18, 4th Div. Rev. Stat. 1879; re-en. Sec. 18, 4th Div. Comp. Stat. 1887; re-en. Sec. 350, Pen. C. 1895; re-en. Sec. 8290, Rev. C. 1907. Cal. Pen. C. Sec. 187.

An indictment for murder, good at common law, is good under the statute. Territory v. Stears, 2 Mont. 324, 327; Territory v. Young, 5 Mont. 242, 243, 5 Pac. 248; State v. Lu Sing, 34 Mont. 31, 35, 85 Pac. 521, 9 Ann. Cas. 344; State v. McGowan, 36 Mont. 422, 428, 93 Pac. 552.

In an information for murder, it is sufficient to allege that the killing was with malice aforethought. The elements of premeditation and deliberation are matters of proof. Territory v. Stears, 2 Mont. 324, 327; Territory v. McAndrews, 3 Mont. 158, 161; State v. Metcalf, 17 Mont. 417, 420, 43 Pac. 182; State v. Lu Sing, 34 Mont. 31, 35, 85 Pac. 521, 9 Ann. Cas. 344; State v. Hayes, 38 Mont. 219, 221, 99 Pac. 434; State v. Nielson, 38 Mont. 451, 454, 100 Pac. 229. See, also, State v. Guerin, 51 Mont. 250, 257, 152 Pac. 747.

An information charging a husband with a wilful failure to provide for his wife and

to protect her from the cold and inclement weather, as a result of which she died, will sustain a conviction for murder in the second degree. Territory v. Manton, 7 Mont. 162, 168, 14 Pac. 637.

The distinction between murder and manslaughter is that the element of malice aforethought enters into the former, while it is wanting in the latter. State v. Sloan, 22 Mont. 293, 302, 56 Pac. 364.

An information charging that accused committed a murder wilfully, unlawfully, feloniously, and premeditatedly, and of his malice aforethought, charges murder in the first degree, though it fails to use the word "deliberately." State v. Hliboka, 31 Mont. 455, 457, 78 Pac. 965, 3 Ann. Cas. 934.

An information stating that the defendant unlawfully, feloniously, wilfully, premeditatedly, deliberately, and of his malice aforethought, shot and killed a person named, a human being, sufficiently charges murder. State v. Crean, 43 Mont. 47, 53, 114 Pac. 603, Ann. Cas. 1912C, 424.

Cited or applied as section 8290, Revised Codes, in State v. Colbert, 58 Mont. 584, 591, 194 Pac. 145.

For text treatment of "Homicide," see Cal. Jur. and 13 R. C. L. 697.

10954. Malice defined—Express or implied. Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow-creature. It is implied, when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart.

History: Ap. p. Secs. 16, 17, pp. 178, 179, Bannack Stat.; re-en. Secs. 19, 20, p. 273, Cod. Stat. 1871; re-en. Secs. 19, 20, 4th Div. Rev. Stat. 1879; re-en. Secs. 19, 20, 4th Div. Comp. Stat. 1887; en. Sec. 351,

Pen. C. 1895; re-en. Sec. 8291, Rev. C. 1907. Cal. Pen. C. Sec. 188.

It is not essential to a conviction of murder that a motive for the crime be

shown. Malice may be inferred from the fact that no considerable provocation appears, or that the circumstances attending the killing show an abandoned and malignant heart. *State v. Roberts*, 44 Mont. 243, 245, 119 Pac. 566.

In a prosecution for murder, the jury is justified in finding a malicious intent to take human life, where the defendant, a short time prior to the killing, declared his

intention of shooting the person whom he should see in possession of his saddlehorse, and where he did do so, though the victim was a stranger to him. *State v. Leakey*, 44 Mont. 354, 366, 120 Pac. 234.

Cited or applied as section 351, Penal Code, in *State v. Hliboka*, 31 Mont. 455, 457, 78 Pac. 965, 3 Ann. Cas. 934; as section 8291, Revised Codes, in *State v. Halk*, 49 Mont. 173, 175, 141 Pac. 149.

10955. Degrees of murder. All murder which is perpetrated by means of poison, or lying in wait, torture, or by any other kind of wilful, deliberate, and premeditated killing, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or mayhem, or perpetrated from a deliberate and premeditated design, unlawfully and maliciously, to effect the death of any human being other than him who is killed, is murder of the first degree; and all other kinds of murder are of the second degree.

History: En. Sec. 17, p. 179, Bannack Stat.; re-en. Sec. 21, p. 273, Cod. Stat. 1871; re-en. Sec. 21, 4th Div. Rev. Stat. 1879; re-en. Sec. 21, 4th Div. Comp. Stat. 1887; amd. Sec. 352, Pen. C. 1895; re-en. Sec. 8292, Rev. C. 1907; amd. Sec. 1, Ch. 3, L. 1919. Cal. Pen. C. Sec. 189.

An indictment charging the killing or murder to have been done by the defendant "of his deliberate premeditated malice aforethought" sufficiently charges that the killing was deliberate and premeditated. *State v. Metcalf*, 17 Mont. 417, 419, 43 Pac. 182.

It is not necessary to allege that the acts of the accused were done deliberately to

sustain a conviction of murder of the first degree, and allegations sufficient for a common-law indictment will be sufficient for an information. *State v. Lu Sing*, 34 Mont. 31, 35, 85 Pac. 521, 9 Ann. Cas. 344. See, also, *State v. McGowan*, 36 Mont. 422, 428, 93 Pac. 552; *State v. Wolf*, 56 Mont. 493, 496, 185 Pac. 556.

Cited or applied as section 352, Penal Code, before amendment, in *State v. Martin*, 29 Mont. 273, 280, 74 Pac. 725; in *State v. Hliboka*, 31 Mont. 455, 457, 78 Pac. 965, 3 Ann. Cas. 934; as section 8292, Revised Codes, before amendment, in *State v. Crean*, 43 Mont. 47, 53, 114 Pac. 603, Ann. Cas. 1912C, 424; *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

10956. Repealing clause. All acts and parts of acts in conflict herewith are hereby repealed; provided, that nothing herein contained shall be construed to relieve any person from prosecution for murder which shall have been committed prior to the approval of this act, but the same shall be prosecuted under the provisions of the preceding section, notwithstanding such repeal, and said section shall be continued in force for the purpose of such prosecutions only.

History: En. Sec. 2, Ch. 3, L. 1919.

10957. Punishment for murder. Every person guilty of murder in the first degree shall suffer death, or shall, in the discretion of the jury, or of the court, if the punishment be left to the court, be imprisoned in the state prison for the term of his natural life; and every person guilty of murder in the second degree is punishable by imprisonment in the state prison not less than ten years.

History: En. Sec. 1, Ch. 179, L. 1907, Sec. 8293, Rev. C. 1907. Cal. Pen. C. Sec. 190.

Note.—For earlier acts see section 17, p. 179, Bannack Statutes; section 25, p. 274, Codified Statutes 1871; section 25, Fourth Division Revised Statutes 1879; section 25,

Fourth Division Compiled Statutes 1887; section 353, Penal Code 1895.

Where the accused, in a prosecution for murder, fails to raise in the minds of the jurors a reasonable doubt as to his guilt, the jury is justified in finding the highest

degree of the crime, and in fixing the death penalty. *State v. Leahey*, 44 Mont. 354, 366, 120 Pac. 234.

Cited or applied as section 353, Penal Code, before amendment, in *State v. Gay*,

18 Mont. 51, 59, 44 Pac. 411; in *State v. Hliboka*, 31 Mont. 455, 457, 78 Pac. 965, 3 Ann. Cas. 934; as section 8293, Revised Codes, in *State ex rel. Esgar v. District Court*, 56 Mont. 464, 472, 185 Pac. 157.

10958. Petit treason abolished. The rules of the common law, distinguishing the killing of a master by his servant, and of a husband by his wife, as petit treason, are abolished, and these offenses are homicides, punishable in the manner prescribed by this chapter.

History: En. Sec. 354, Pen. C. 1895; re-en. Sec. 8294, Rev. C. 1907. Cal. Pen. C. Sec. 191.

10959. Manslaughter—Voluntary and involuntary. Manslaughter is the unlawful killing of a human being, without malice. It is of two kinds:

1. Voluntary, upon a sudden quarrel or heat of passion.

2. Involuntary, in the commission of an unlawful act, not amounting to felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution or circumspection.

History: En. Sec. 355, Pen. C. 1895; re-en. Sec. 8295, Rev. C. 1907. Cal. Pen. C. Sec. 192.

Note.—Prior to 1895, the law governing manslaughter and excusable and justifiable homicide differed materially from the present law. See sections 18 to 31, p. 179 to 181, Bannack Statutes; re-enacted as sections 26 to 38, p. 274 to 276, Codified Statutes 1871; re-enacted as sections 26 to 38, Fourth Division Revised Statutes 1879; re-enacted as sections 26 to 38, Fourth Division Compiled Statutes 1887.

The negligent handling of a loaded firearm causing or contributing to the death

of another person, is involuntary manslaughter within the meaning of subdivision 2 of this section. *State v. Kuun*, 55 Mont. 436, 446, 178 Pac. 288.

Cited or applied as section 355, Penal Code, in *State v. Sloan*, 22 Mont. 293, 302, 56 Pac. 364; as section 8295, Revised Codes, in *State v. Schaefer*, 35 Mont. 217, 221, 88 Pac. 792; *State v. Crean*, 43 Mont. 47, 53, 114 Pac. 603, Ann. Cas. 1912C, 424.

Condition of mind of slayer which reduces murder to manslaughter, see note in 134 A. S. R. 726; 9 Ann. Cas. 929; 5 L. R. A. (N. S.) 809.

10960. Punishment for manslaughter. Manslaughter is punishable by imprisonment in the state prison not exceeding ten years.

History: En. Sec. 356, Pen. C. 1895; re-en. Sec. 8296, Rev. C. 1907. Cal. Pen. C. Sec. 193.

Cited or applied as section 356, Penal Code, in *State v. Gay*, 18 Mont. 51, 59, 44 Pac. 411.

10961. Deceased must die within a year and a day. To make the killing either murder or manslaughter, it is requisite that the party die within a year and a day after the stroke received or the cause of death administered; in the computation of which the whole of the day on which the act was done shall be reckoned the first.

History: En. Sec. 23, p. 180, Bannack Stat.; re-en. Sec. 30, p. 275, Cod. Stat. 1871; re-en. Sec. 30, 4th Div. Rev. Stat. 1879; re-en. Sec. 30, 4th Div. Comp. Stat. 1887; re-en. Sec. 357, Pen. C. 1895; re-en. Sec. 8297, Rev. C. 1907. Cal. Pen. C. Sec. 194.

It is not necessary to allege in an information for murder the date upon which the death occurred as distinguished from the date of assault. All that is necessary

in order to constitute the crime of murder, the other requisite facts being proven, is that the death of the party occurred within a year and a day after the stroke received or the cause of death administered. *State v. Powers*, 39 Mont. 259, 267, 102 Pac. 583.

Cited or applied as section 357, Penal Code, in *State v. Keerl*, 29 Mont. 508, 511, 75 Pac. 362, 101 Am. St. Rep. 579.

10962. Proof of corpus delicti. No person can be convicted of murder or manslaughter unless the death of the person, alleged to have been killed,

and the fact of the killing by the defendant as alleged, are established as independent acts; the former by direct proof, and the latter beyond a reasonable doubt.

History: En. Sec. 358, Pen. C. 1895; re-en. Sec. 8298, Rev. C. 1907.

Since the corpus delicti is directly proved when a dead body is found under circumstances warranting an inference that a person has been feloniously killed, direct proof of the identity of the victim is not required, but only direct proof of death. *State v. Pepo*, 23 Mont. 473, 481, 59 Pac. 721.

In prosecutions for murder, proof of the corpus delicti involves the establishment of the fact that a murder has been committed, but includes neither the identity of the person alleged to have been killed, nor the killing by the person accused. *State v. Calder*, 23 Mont. 504, 513, 59 Pac. 903; *State v. Nordall*, 38 Mont. 327, 338, 59 Pac. 960.

Where, on a trial for murder, the identity of the person alleged to have been killed was proved by the direct evidence of an accomplice, who was an eye-witness,

and the death of a human being was directly proved, and there was circumstantial evidence to prove the identity of the deceased, the evidence was sufficient to satisfy the requirements of this section, that the "death" of the person alleged to have been killed must be established by "direct proof," as an independent fact, and of section 10496. *State v. Calder*, 23 Mont. 504, 508, 59 Pac. 903.

In a prosecution for murder, this section does not require direct proof of the identity of the victim, or of the fact that the killing was done by the defendant, but only of the fact of death. *State v. Nordall*, 38 Mont. 327, 338, 59 Pac. 960.

Cited or applied as section 358, Penal Code, in *State v. Keerl*, 29 Mont. 508, 511, 75 Pac. 362, 101 Am. St. Rep. 579.

Definition of corpus delicti and necessity of proof, see notes in 1 Ann. Cas. 823; 68 L. R. A. 33.

10963. Excusable homicide. Homicide is excusable in the following cases:

1. When committed by accident or misfortune, in lawfully correcting a child or servant, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.

2. When committed by accident or misfortune, in the heat of passion, upon any sudden or sufficient provocation, or upon a sudden combat, when no undue advantage is taken, nor any dangerous weapon used, and when the killing is not done in any cruel or unusual manner.

History: En. Sec. 359, Pen. C. 1895; re-en. Sec. 8299, Rev. C. 1907. See note to Sec. 10959. Cal. Pen. C. Sec. 195.

State v. Kuum, 55 Mont. 436, 444, 178 Pac. 288.

To justify a finding that a homicide by shooting was excusable, where defendant and deceased were strangers, the evidence must show that, when the shot was fired, defendant was doing a lawful act, by lawful means, with usual and ordinary caution, and without any unlawful intent.

The question whether defendant, while intoxicated and in the act of exhibiting his revolver to the deceased, also under the influence of liquor, exercised that usual and ordinary caution in handling the weapon made necessary by this section to render the killing excusable, was one for the determination of the jury. *State v. Kuum*, 55 Mont. 436, 446, 178 Pac. 288.

10964. Justifiable homicide by public officers. Homicide is justifiable when committed by public officers, and those acting by their command in their aid and assistance, either:

1. In obedience to a judgment of a competent court; or
2. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or,
3. When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons

charged with felony, and who are fleeing from justice or resisting such arrest.

History: Ap. p. Sec. 28, p. 181, Ban- 1879; re-en. Sec. 35, 4th Div. Comp. Stat.
nack Stat.; re-en. Sec. 35, p. 275, Cod. Stat. 1887; en. Sec. 360, Pen. C. 1895; re-en. Sec.
1871; re-en. Sec. 35, 4th Div. Rev. Stat. 8300, Rev. C. 1907. Cal. Pen. C. Sec. 196.

10965. Justifiable homicide by other persons. Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,

2. When committed in defense of habitation, property, or person, against one who manifestly intends and endeavors, in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or,

3. When committed in the lawful defense of such person, or of a wife, or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony, or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mortal combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or,

4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

History: En. Sec. 361, Pen. C. 1895; re-en. Sec. 8301, Rev. C. 1907. See note to Sec. 10959. Cal. Pen. C. Sec. 197.

The provisions of this section put persons acting in defense of others upon the same plane as those acting in defense of themselves. Every fact, therefore, which would be competent to establish justification in the one case would, for the same reasons, be competent to establish it in the other. *State v. Felker*, 27 Mont. 451, 458, 71 Pac. 668.

Where, on a trial for murder, in which the accused pleaded self-defense, it was shown that the deceased had previously threatened the accused, an instruction directing the jury to disregard such prior threats unless the accused, at the time of the killing, was actually assailed, or believed he was in great bodily danger, was erroneous. *State v. Shadwell*, 26 Mont. 52, 55, 66 Pac. 508. See, also, *State v. Hanlon*, 38 Mont. 557, 570, 571, 100 Pac. 1035; *State v. Whitworth*, 47 Mont. 424, 435, 133 Pac. 364; *State v. Jones*, 48 Mont. 505, 519, 139 Pac. 441; *Trapp v. Territory of New Mexico*, 225 Fed. 968, 971, 141 C. C. A. 28.

On the issue whether defendant, when he killed deceased, believed that deceased was about to assault his wife—defendant's sister—testimony showing that, to defendant's knowledge, deceased had made prior assaults on his wife, was admissible, and

the fact that the prior assaults occurred before November 30th, while the homicide occurred December 15th, did not make the evidence inadmissible, as too remote. *State v. Felker*, 27 Mont. 451, 458, 71 Pac. 668.

Testimony of prior threats by deceased, though not communicated to defendant, was admissible. *State v. Felker*, 27 Mont. 451, 460, 71 Pac. 668. See, also, *State v. Hanlon*, 38 Mont. 557, 571, 100 Pac. 1035; *State v. Whitworth*, 47 Mont. 424, 435, 133 Pac. 364; *Trapp v. Territory of New Mexico*, 225 Fed. 968, 971, 141 C. C. A. 28.

Where the trial court, in a prosecution for murder, instructed the jury that the right of self-defense was to be measured by what a reasonable person would have done under like or the same circumstances, the charge conformed to the requirements of this section, and was sufficient. *State v. Houk*, 34 Mont. 418, 423, 87 Pac. 175.

Under this section and the following section, if the party committing the homicide was the assailant, or engaged in mortal combat, he must in good faith have endeavored to decline any further struggle before the killing was done, otherwise he cannot invoke self-defense. *State v. Merk*, 53 Mont. 454, 460, 164 Pac. 655.

A person assailed may act upon appearances as they present themselves to him, meet force with force, and even slay his assailant; and, though in fact he was not in any actual peril, yet if the circum-

stances were such that a reasonable man would be justified in acting as he did, the slayer will be held blameless. *State v. Merk*, 53 Mont. 454, 461, 164 Pac. 655.

A person assailed with apparent murderous intent need not retreat and seek a place of safety before slaying his assail-

ant. *State v. Merk*, 53 Mont. 454, 461, 164 Pac. 655.

Homicide in defense of one's house, person, or family, see notes in 26 Am. Dec. 279; 12 Am. Rep. 212; 13 Ann. Cas. 1129; 21 Ann. Cas. 721; Ann. Cas. 1914B, 457.

10966. Bare fear not to justify killing. A bare fear of the commission of any of the offenses mentioned in subdivisions 2 and 3 of the preceding section, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone.

History: En. Sec. 26, p. 180, Bannack Stat.; re-en. Sec. 33, p. 275, Cod. Stat. 1871; re-en. Sec. 33, 4th Div. Rev. Stat. 1879; re-en. Sec. 33, 4th Div. Comp. Stat. 1887; amd. Sec. 362, Pen. C. 1895; re-en. Sec. 8302, Rev. C. 1907. Cal. Pen. C. Sec. 198.

In a prosecution for murder, where the defendant relies upon the plea of self-defense, an instruction which makes the

measure of justification "the sense of danger appearing to the defendant, and to men or individuals of his race," is properly refused. *State v. Cadotte*, 17 Mont. 315, 320, 42 Pac. 857.

Cited or applied as section 362, Penal Code, in *State v. Shadwell*, 26 Mont. 52, 55, 66 Pac. 508; *State v. Felker*, 27 Mont. 451, 457, 71 Pac. 668; as section 8302, Revised Codes, in *State v. Merk*, 53 Mont. 454, 460, 164 Pac. 655.

10967. Justifiable and excusable homicide not punishable. The homicide appearing to be justifiable or excusable, the person charged must, upon his trial, be fully acquitted and discharged.

History: En. Sec. 32, p. 181, Bannack Stat.; re-en. Sec. 39, p. 276, Cod. Stat. 1871; re-en. Sec. 39, 4th Div. Rev. Stat. 1879; re-en. Sec. 39, 4th Div. Comp. Stat. 1887; amd. Sec. 363, Pen. C. 1895; re-en.

Sec. 8303, Rev. C. 1907. Cal. Pen. C. Sec. 199.

Cited or applied as section 8303, Revised Codes, in *State v. Powell*, 54 Mont. 217, 221, 169 Pac. 46.

CHAPTER 17.

MAYHEM.

Section 10968. Mayhem Defined.

10969. Mayhem—How Punishable.

10968. Mayhem defined. Every person who unlawfully and maliciously deprives a human being of a member of his body, or disables, disfigures, or renders it useless, or cuts or disables the tongue, or puts out an eye, or slits the nose, ear, or lip, is guilty of mayhem.

History: En. Sec. 42, p. 184, Bannack Stat.; re-en. Sec. 45, p. 277, Cod. Stat. 1871; re-en. Sec. 45, 4th Div. Rev. Stat. 1879; re-en. Sec. 45, 4th Div. Comp. Stat. 1887; amd. Sec. 370, Pen. C. 1895; re-en. Sec. 8304, Rev. C. 1907. Cal. Pen. C. Sec. 203.

A testicle of a male human being is a "member of the body," within the mean-

ing of this section. *State v. Sheldon*, 54 Mont. 185, 190, 169 Pac. 37.

What constitutes mayhem, see note in 65 A. S. R. 771.

Self-defense as defense to prosecution for mayhem, see note in 15 Ann. Cas. 82.

Malice and premeditation as element of offense of mayhem or maiming, see note in L. R. A. 1916E, 494.

10969. Mayhem—How punishable. Mayhem is punishable by imprisonment in the state prison not exceeding fourteen years.

History: En. Sec. 371, Pen. C. 1895; re-en. Sec. 8305, Rev. C. 1907. See note

to preceding section for earlier history. Cal. Pen. C. Sec. 204.

CHAPTER 18.

KIDNAPING.

Section 10970. Kidnaping Defined and Punished.

10971. Venue.

10972. Consent of Injured Person.

10970. Kidnaping defined and punished. Every person who wilfully—

1. Seizes, confines, inveigles, or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of the state, or in any way held to service or kept or detained against his or her will, or against the will of his or her parent or guardian, whether such guardian be natural or appointed, and any person who—

2. Leads, takes, entices away, or detains a child under the age of eighteen years, with intent to keep or conceal it from its parent, guardian, or other person having the lawful care or control thereof, or to extort or obtain money or reward for the return or disposition of the child, or with intent to steal any article about or on the person of the child; or,

3. Abducts, entices, or by force or fraud unlawfully takes or carries away another, at or from a place without the state, or procures or advises, aids or abets, such abduction, enticing, taking, or conveying away, and afterwards sends, brings, has, or keeps such person, or causes him to be kept or secreted within this state, is guilty of kidnaping, and is punishable by imprisonment in the state prison for not less than one year.

History: En. Sec. 380, Pen. C. 1895; amd. Sec. 1, p. 169, L. 1901; re-en. Sec. 8306, Rev. C. 1907. Cal. Pen. C. Sec. 207.

Under subdivision 3 of this section the crime is complete when the acts described by subdivision 3 are done, though without intent to cause the person to be secretly confined and imprisoned within the state, notwithstanding subdivision 1, making that an element of the crime where the person is seized in this state. *State v. Stickney*, 29 Mont. 523, 527, 75 Pac. 201.

An information which omitted the qualifying word "secretly," in charging the crime of kidnaping, was nevertheless sufficient to support a conviction. In *re McDonald*, 50 Mont. 348, 350, 146 Pac. 942.

This section includes within its purview as distinct offenses these several acts, viz.: The seizure, etc., of one person by another with intent to cause him, without authority of law, (1) to be secretly confined or imprisoned in this state, (2) to be sent out of the state, or (3) to be in any way held to service or kept or detained against his will, or against the will of his or her parent or guardian, whether such guardian be natural or appointed. In *re McDonald*, 50 Mont. 348, 351, 146 Pac. 942; *State v. McDonald*, 51 Mont. 1, 3, 149 Pac. 279.

For text treatment of "Kidnaping," see Cal. Jur. and 8 R. C. L. 296.

10971. Venue. An indictment or information for kidnaping may be tried either in the county in which the offense was committed, or in any county through or in which the person kidnaped or confined was taken or kept while under confinement or restraint.

History: En. Sec. 381, Pen. C. 1895; re-en. Sec. 8307, Rev. C. 1907.

10972. Consent of injured person. Upon a trial for a commission of the offense mentioned in this chapter, the consent thereto of the person kidnaped or confined is not a defense, unless it appear that such person was above the age of twelve years, and that the consent was not extorted by threats or duress.

History: En. Sec. 382, Pen. C. 1895; re-en. Sec. 8308, Rev. C. 1907.

CHAPTER 19.

ROBBERY.

Section 10973. Robbery Defined.

10974. What Fear May Be an Element in Robbery.

10975. Punishment of Robbery.

10973. Robbery defined. Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

History: En. Sec. 59, p. 188, Bannack Stat.; re-en. Sec. 71, p. 282, Cod. Stat. 1871; re-en. Sec. 71, 4th Div. Rev. Stat. 1879; re-en. Sec. 77, 4th Div. Comp. Stat. 1887; amd. Sec. 390, Pen. C. 1895; re-en. Sec. 8309, Rev. C. 1907. Cal. Pen. C. Sec. 211.

An instruction defining robbery, which omits to state "the taking" must be felonious, is prejudicial error. *State v. Oliver*, 20 Mont. 318, 319, 50 Pac. 1018. See, also, *State v. Rodgers*, 21 Mont. 143, 144, 53 Pac. 97.

An indictment which charges that the defendant committed the robbery by force and intimidation and by putting the person robbed in fear, is sufficient. *State v. Clancy*, 20 Mont. 498, 501, 52 Pac. 267.

An instruction defining robbery in the language of this section except using the word "accompanied" instead of the word "accomplished," is reversible error. *State v. Johnson*, 26 Mont. 9, 10, 66 Pac. 290. See, also, *State v. Pemberton*, 39 Mont. 530, 533, 104 Pac. 556.

An information on a prosecution for robbery, which charged that the property was taken by means of force and putting in fear, and that it was taken from the person and possession, and from the immediate presence of a specified person, does not charge more than one offense. *State v. Howard*, 30 Mont. 518, 522, 77 Pac. 50.

Where defendant, while engaged in attempting to rob the safe on a train, robbed a mail clerk, on a prosecution for

the robbery of the mail clerk it was proper to admit evidence as to all the details of the attempted robbery of the train, and a conspiracy therefor. *State v. Howard*, 30 Mont. 518, 524, 77 Pac. 50.

The taking of personal property from the person or immediate presence of another, without resistance on his part, does not bring the offense within the definition of robbery, it being necessary that the element of force or fear should be present to constitute the crime. *State v. Paisley*, 36 Mont. 237, 244, 92 Pac. 566.

Since this section does not define the degree of force necessary to constitute the taking of personal property from the person or immediate presence of another the crime of robbery, an information charging such offense need not allege the degree of force used in accomplishing it. *State v. Paisley*, 36 Mont. 237, 245, 92 Pac. 566.

Though the crime of robbery can be accomplished only by means of force or fear, and is most frequently accompanied by an assault, proof of an assault without circumstances tending to show that it was resorted to as a means to prevent resistance, and in order to obtain property from the person or immediate presence of the one assaulted, falls far short of establishing the crime of an attempt to commit robbery. *State v. Hanson*, 49 Mont. 361, 368, 141 Pac. 669.

For text treatment of "Robbery," see Cal. Jur. and 23 R. C. L. 1138.

10974. What fear may be an element in robbery. The fear mentioned in the last section may be either:

1. The fear of an unlawful injury to the person or property of the person robbed, or of any relative of his, or member of his family; or,

2. The fear of an immediate and unlawful injury to the person or property of any one in the company of the person robbed at the time of the robbery.

History: En. Sec. 391, Pen. C. 1895; re-en. Sec. 8310, Rev. C. 1907. Cal. Pen. C. Sec. 212.

Example of an information sufficiently charging the fear necessary to constitute the crime of robbery as defined in this section. *State v. Gill*, 21 Mont. 151, 153, 53 Pac. 184.

Assuming that an information charging robbery was defective in not stating facts

sufficient to allege fear, within the definition given in this section, on the part of the person robbed, still, the allegation of force, the alternative element of the crime, having been sufficient, the pleading was not vulnerable to attack. *State v. Paisley*, 36 Mont. 237, 245, 92 Pac. 566.

Cited or applied as section 391, Penal Code, in *State v. Clancy*, 20 Mont. 498, 502, 52 Pac. 267.

10975. Punishment of robbery. Robbery is punishable by imprisonment in the state prison for a term not less than one year.

History: En. Sec. 392, Pen. C. 1895; re-en. Sec. 8311, Rev. C. 1907; amd. Sec. 1, Ch. 102, L. 1921. Cal. Pen. C. Sec. 213.

of one convicted of robbery, who is also found to have been previously convicted in another state of burglary, is warranted by the law. State v. Paisley, 36 Mont. 237, 248, 92 Pac. 566.

A sentence to fifty years' imprisonment

CHAPTER 20.

ASSAULTS.

Section 10976. Assault in the First Degree Defined—Penalty.

10977. Assault in Second Degree.

10978. Assault in Third Degree.

10979. Assaults With Caustic Chemicals, etc.

10980. Use of Force Not Unlawful.

10976. Assault in the first degree defined—Penalty. Every person who, with intent to kill a human being, or to commit a felony upon the person or property of the one assaulted or of another:

1. Assaults another with a loaded firearm or any other deadly weapon, or by any other means or force likely to produce death; or,

2. Administers or causes to be administered to, or taken by another, poison, or any other destructive or noxious thing, so as to endanger the life of such other,

is guilty of assault in the first degree, and is punishable by imprisonment in the state prison not less than five nor more than twenty years.

History: En. Sec. 400, Pen. C. 1895; re-en. Sec. 8312, Rev. C. 1907; amd. Sec. 1, Ch. 5, L. 1911. Cal. Pen. C. Secs. 217, 245.

Note.—For earlier acts see sections 45 to 47, p. 185, Bannack Statutes; sections 55 to 59, p. 278, Codified Statutes 1871; sections 55 to 59, Fourth Division Revised Statutes 1879; re-enacted as sections 58 to 62, Fourth Division Compiled Statutes 1887.

In cases of assault of the first degree, where the specific charge in the information is "assault with intent to kill," the instruction should omit all reference to murder or manslaughter, and advise juries, in lieu thereof, that, to sustain the information, they must find, beyond a reasonable doubt, that the assault was committed

with intent to kill. State v. Schaefer, 35 Mont. 217, 222, 88 Pac. 792.

In a prosecution for assault in the first degree, the court may properly submit to the jury the question whether, on the evidence, the defendant, if not guilty as charged, was not guilty of assault in the second degree. State v. Papp, 51 Mont. 405, 409, 153 Pac. 279.

Cited or applied as Laws 1911, p. 9, in In re Gomez, 52 Mont. 189, 190, 156 Pac. 1078.

For text treatment of "Assault and Battery," see 3 Cal. Jur. 179 and 2 R. C. L. 522.

What constitutes deadly weapon, see notes in Ann. Cas. 1912A, 1328; 8 A. L. R. 1319; 21 L. E. A. (N. S.) 497.

10977. Assault in second degree. Every person who, under circumstances not amounting to the offense specified in the last section:

1. With intent to injure unlawfully, administers to, or causes to be administered to, or taken by another, poison, or any other destructive or noxious thing, or any drug or medicine, the use of which is dangerous to life or health; or,

2. With intent thereby to enable or assist himself, or any other person, to commit any crime, administers to, or causes to be administered to, or taken, by another, chloroform, ether, laudanum, or any other intoxicating narcotic, or anesthetic agent; or,

3. Wilfully or wrongfully wounds or inflicts grievous bodily harm upon another, either with or without a weapon; or,

4. Wilfully and wrongfully assaults another by the use of a weapon, or other instrument or thing likely to produce grievous bodily harm; or,

5. Assaults another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court or officer, or the lawful apprehension or detention of himself, or of any other person,

is guilty of an assault in the second degree, and is punishable by imprisonment in the state prison for not less than one nor more than five years, or by a fine not exceeding two thousand dollars, or both.

History: En. Sec. 401, Pen. C. 1895; re-en. Sec. 8313, Rev. C. 1907. Cal. Pen. C. Secs. 216, 222 and 245.

It is not necessary to allege, in an information for an assault and battery in the second degree, as defined in subdivision 3 of this section, that "the assault was committed with the intent to inflict grievous bodily harm," because the statutes do not include the word "intent" in defining the crime. *State v. Broadbent*, 19 Mont. 467, 471, 48 Pac. 775. See, also, *State v. Bloor*, 20 Mont. 574, 583, 52 Pac. 611; *State ex rel. Webb v. District Court*, 37 Mont. 191, 197, 95 Pac. 593, 15 Ann. Cas. 743.

An information charging defendant with having wilfully, unlawfully, and feloniously assaulted a person with a piece of iron pipe, with intent to inflict grievous bodily harm, was sufficient to charge the defendant with an assault with intent to commit a felony, and gave the district court jurisdiction to try the cause. *State v. Farnham*, 35 Mont. 375, 377, 89 Pac. 728.

Where one charged with assault in the second degree was convicted of that crime in the third degree, he was not prejudiced by an instruction which comprised all of the subdivisions of this section, setting forth the various circumstances under

which the crime in the higher degree may be committed. *State v. Farnham*, 35 Mont. 375, 378, 89 Pac. 728.

An information charging that defendant "did wilfully, unlawfully, wrongfully, intentionally, and feloniously assault one S., by throwing said S. from a moving street-car, with intent in him, the said defendant, to inflict grievous bodily harm upon said S.," was sufficient to charge assault in the second degree, under subdivision 3 of this section. *State v. Tracey*, 35 Mont. 552, 554, 90 Pac. 791.

Under this section, to constitute an assault other than one which involves a technical battery without which the offense is not complete, there must be present both the element of attempt and the element of present ability to inflict the injury. The absence of the latter element does not prevent a conviction for the attempt, for, under a charge of assault, the defendant may be convicted either of the assault or of the attempt, because the former includes all the elements of the latter. *State v. Stone*, 40 Mont. 88, 91, 105 Pac. 89.

Cited or applied as section 401, Penal Code, in *State v. Connors*, 27 Mont. 227, 228, 70 Pac. 715; as section 8313, Revised Codes, in *State v. Papp*, 51 Mont. 405, 409, 153 Pac. 279.

10978. Assault in third degree. Every person who commits an assault or an assault and battery, not such as is specified in the foregoing sections of this chapter, is guilty of assault in the third degree, and is punishable by imprisonment in the county jail not more than six months, or by a fine not more than five hundred dollars, or both.

History: En. Sec. 402, Pen. C. 1895; re-en. Sec. 8314, Rev. C. 1907.

A verdict finding a defendant guilty of an assault with corrosive acids and caustic chemicals, which fails to find that the assault is committed wilfully or maliciously, or with intent to injure, is a verdict of guilty of assault in the third degree. *State v. District Court*, 35 Mont. 321, 324, 89 Pac. 63.

Pointing unloaded firearms at person as assault, see notes in 13 Ann. Cas. 484; 15 L. R. A. (N. S.) 1272; 41 L. R. A. (N. S.) 181.

Discharging firearm to frighten person as assault, see note in Ann. Cas. 1917D, 617.

10979. Assaults with caustic chemicals, etc. Every person who wilfully and maliciously places or throws, or causes to be placed or thrown upon

the person of another, any vitriol, corrosive acid, or caustic chemical of any nature, with the intent to injure the flesh or disfigure the body of such person, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

History: En. Sec. 403, Pen. C. 1895; re-en. Sec. 8315, Rev. C. 1907. Cal. Pen. C. Sec. 244.

Wilfulness, malice, and intent to injure are necessary to constitute an assault, with corrosive acids or caustic chemicals, a

felony; and, in the absence of a finding as to these necessary requisites, a verdict finding the defendant guilty of an assault with corrosive acids and caustic chemicals will not support a conviction for a felony. State v. District Court, 35 Mont. 321, 323, 89 Pac. 63.

10980. Use of force not unlawful. To use or attempt or offer to use force or violence upon or towards the person of another is not unlawful in the following cases:

1. When necessarily committed by a public officer in the performance of a legal duty, or by any other person assisting him or acting under his direction.

2. When necessarily committed by any person in arresting one who has committed a felony and delivering him to a public officer competent to receive him in custody.

3. When committed either by the party about to be injured, or by another person in his aid or defense, in preventing or attempting to prevent an offense against his person, or a trespass or other unlawful interference with real or personal property in his possession, if the force or violence used is not more than sufficient to prevent such offense.

4. When committed by a parent, or an authorized agent of any parent, or by a guardian, master, or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice, or pupil, and the force or violence used is reasonable in manner and moderate in degree.

5. When committed by a carrier of passengers, or the authorized agent or servants of such carrier, or by any person assisting them at their request in expelling from a carriage, coach, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped at any usual stopping place or near any dwelling-house, and the force or violence used is not more than sufficient to expel the offending passenger with a reasonable regard to his personal safety.

6. When committed by any person when preventing an idiot, lunatic, insane person, or other person of unsound mind, including persons temporarily or partially deprived of their reason, from committing an act dangerous to himself or to another, or in enforcing such restraint as is necessary for the protection of his person or for his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint and custody of his person.

History: En. Sec. 404, Pen. C. 1895; re-en. Sec. 8316, Rev. C. 1907.

Evidence held to show that the defendant had been in possession of the premises, as owner thereof, for months, and that, under subdivision 3 of this section, he had the right to defend such possession, provided he used no more force than was

necessary for that purpose; and that it was error to refuse an instruction to that effect. State v. Howell, 21 Mont. 165, 169, 53 Pac. 314.

Degree of force that may be employed in arresting one charged with a misdemeanor, see note in 3 A. L. R. 1170.

CHAPTER 21.

DUELS AND CHALLENGES—FALSE IMPRISONMENT.

- Section 10981. Duel Defined.
 10982. Punishment for Fighting a Duel, When Death Ensues.
 10983. Punishment for Fighting a Duel, Although Death Does Not Ensur.
 10984. Posting for Not Fighting.
 10985. Duties of Officers to Prevent Duels.
 10986. Leaving the State With Intent to Evade Laws Against Dueling.
 10987. Witness' Privilege.
 10988. False Imprisonment, Definition and Punishment.

10981. Duel defined. A duel is any combat with deadly weapons, fought between two or more persons, by previous agreement or upon a previous quarrel.

History: En. Sec. 410, Pen. C. 1895; For text treatment of "Dueling," see re-en. Sec. 8317, Rev. C. 1907. Cal. Pen. Cal. Jur. and 8 R. C. L. 346. C. Sec. 225.

10982. Punishment for fighting a duel, when death ensues. Every person guilty of fighting any duel, from which death ensues within a year and a day, is punishable by imprisonment in the state prison not less than one nor more than seven years.

History: Ap. p. Sec. 38, p. 183, Bannack 1879; re-en. Sec. 23, 4th Div. Comp. Stat. Stat.; re-en. Sec. 23, p. 274, Cod. Stat. 1887; en. Sec. 411, Pen. C. 1895; re-en. Sec. 1871; re-en. Sec. 23, 4th Div. Rev. Stat. 8318, Rev. C. 1907. Cal. Pen. C. Sec. 226.

10983. Punishment for fighting a duel, although death does not ensue. Every person who fights a duel, or accepts or sends a challenge to fight a duel, is punishable by imprisonment in the state prison or in a county jail not exceeding one year.

History: En. Sec. 412, Pen. C. 1895; re-en. Sec. 8319, Rev. C. 1907. Cal. Pen. C. Sec. 227.

10984. Posting for not fighting. Every person who posts or publishes another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, or who uses any reproachful or contemptuous language, verbal, written, or printed, to or concerning another, for not sending or accepting a challenge to fight a duel, or with intent to provoke a duel, is guilty of a misdemeanor.

History: En. Sec. 413, Pen. C. 1895; re-en. Sec. 8320, Rev. C. 1907. Cal. Pen. C. Sec. 229.

10985. Duties of officers to prevent duels. Every judge, justice of the peace, sheriff, or other officer bound to preserve the public peace, who has knowledge of the intention on the part of any persons to fight a duel, and who does not exert his official authority to arrest the party and prevent the duel, is punishable by fine not exceeding one thousand dollars.

History: En. Sec. 124, p. 207, Bannack 1887; amd. Sec. 414, Pen. C. 1895; re-en. Stat.; re-en. Sec. 138, p. 300, Cod. Stat. Sec. 8321, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 138, 4th Div. Rev. Stat. 230. 1879; re-en. Sec. 153, 4th Div. Comp. Stat.

10986. Leaving the state with intent to evade laws against dueling. Every person who leaves this state with intent to evade any of the pro-

visions of this chapter, and to commit any act out of this state, such as is prohibited by this chapter, and who does any act, although out of this state, which would be punishable by such provisions if committed within this state, is punishable in the same manner as he would have been in case such act had been committed within this state.

History: En. Sec. 415, Pen. C. 1895; re-en. Sec. 8322, Rev. C. 1907. Cal. Pen. C. Sec. 231.

10987. Witness' privilege. No person shall be excused from testifying or answering any question upon any investigation or trial for a violation of any of the provisions of the six preceding sections, upon the ground that his testimony might tend to convict him of a crime. But no evidence given upon any examination of a person so testifying shall be received against him in any criminal prosecution or proceeding.

History: En. Sec. 416, Pen. C. 1895; re-en. Sec. 8323, Rev. C. 1907. Cal. Pen. C. Sec. 232.

10988. False imprisonment, definition and punishment. False imprisonment is the unlawful violation of the personal liberty of another, and is punishable by fine not exceeding five thousand dollars, or by imprisonment in the county jail not more than one year, or both.

History: En. Sec. 48, p. 185, Bannack Stat.; re-en. Sec. 63, p. 280, Cod. Stat. 1871; re-en. Sec. 63, 4th Div. Rev. Stat. 1879; re-en. Sec. 67, 4th Div. Comp. Stat. 1887; amd. Sec. 420, Pen. C. 1895; re-en. Sec. 8324, Rev. C. 1907. Cal. Pen. C. Sec. 236.

False imprisonment is treated as a tort and also as a crime, the definition being the same in either case. The liability of a wrongdoer does not depend primarily upon his mental attitude. *Kroeger v. Passmore*, 36 Mont. 504, 508, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

Treating false imprisonment as a tort, as distinguished from a crime, the only defenses which may be interposed are a denial of the imprisonment and a justification of the imprisonment. *Kroeger v. Passmore*, 36 Mont. 504, 510, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

If an arrest and imprisonment have been accomplished without legal process, it is false imprisonment. *Grorud v. Losel*, 48 Mont. 274, 283, 136 Pac. 1069.

False imprisonment is an unlawful violation of the personal liberty of another, and is the subject of an action, whether the wrongful act is prompted by malice or not. *Grorud v. Losel*, 48 Mont. 274, 283, 136 Pac. 1069.

The gist of the offense of false imprisonment, as defined in this section, is the un-

lawful detention. *Stephens v. Conley*, 48 Mont. 352, 364, 138 Pac. 189, Ann. Cas. 1915D, 958.

False imprisonment is any unlawful violation of the personal liberty of another, both at common law and under the statute. In *re McDonald*, 50 Mont. 348, 351, 146 Pac. 942.

Evidence shows that the liberty of the prosecuting witness was violated within the meaning of the statute defining false imprisonment. *State v. McDonald*, 51 Mont. 1, 17, 149 Pac. 279.

The statutory provision, defining the crime of false imprisonment, defines also the civil wrong resulting from it; therefore, in order to make out a case for damages, the plaintiff must allege a violation of his personal liberty, and that such violation was without legal justification. *Slifer v. Yorath*, 52 Mont. 129, 132, 155 Pac. 1113.

For text treatment of "False Imprisonment," see Cal. Jur. and 11 R. C. L. 789.

False imprisonment as affected by offer to release plaintiff conditionally or temporarily, see note in 6 A. L. R. 1475.

Time at which an arrest is made as affecting its legality or liability for making it, see note in 9 A. L. R. 1350.

False imprisonment as depending on exercise of force, see note in Ann. Cas. 1912D, 727.

CHAPTER 22.

LIBEL.

- Section 10989. Libel Defined.
 10990. Punishment of Libel.
 10991. Malice Presumed.
 10992. Truth May Be Given in Evidence—Jury to Determine Law and Fact.
 10993. Publication Defined.
 10994. Liability of Editors and Publishers.
 10995. Publishing a True Report of Public Proceedings Privileged.
 10996. Extent of Privilege.
 10997. Other Privileged Communications.
 10998. Threatening to Publish Libel—Offer to Prevent Publication, With Intent to Extort Money.
 10999. Giving False Information for Publication.

10989. Libel defined. A libel is a malicious defamation, expressed either by writing, printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue, or reputation, or to publish the natural or alleged defects of one who is alive, and thereby to expose him to public hatred, contempt, or ridicule.

Related sections: 5689, 11857.

History: En. Sec. 125, p. 207, Bannack Stat.; re-en. Sec. 139, p. 301, Cod. Stat. 1871; re-en. Sec. 139, 4th Div. Rev. Stat. 1879; re-en. Sec. 154, 4th Div. Comp. Stat.

1887; re-en. Sec. 430, Pen. C. 1895; re-en. Sec. 8325, Rev. C. 1907. Cal. Pen. C. Sec. 248.

For text treatment of "Libel," see Cal. Jur. and 17 R. C. L. 254.

10990. Punishment of libel. Every person who wilfully, and with a malicious intent to injure another, publishes, or procures to be published, any libel, is punishable by fine not exceeding five thousand dollars, or imprisonment in the county jail not exceeding one year.

History: En. Sec. 431, Pen. C. 1895; re-en. Sec. 8326, Rev. C. 1907. Cal. Pen. C. Sec. 249.

10991. Malice presumed. An injurious publication is presumed to have been malicious if no justifiable motive for making it is shown.

History: En. Sec. 432, Pen. C. 1895; re-en. Sec. 8327, Rev. C. 1907. Cal. Pen. C. Sec. 250.

dependent Publishing Co., 45 Mont. 127, 141, 122 Pac. 735, Ann. Cas. 1913D, 1063, 38 L. R. A. (N. S.) 1160. See, also, Cooper v. Romney, 49 Mont. 119, 127, 141 Pac. 289, Ann. Cas. 1916A, 596.

Where a publication by a newspaper is libelous per se, the law presumes malice, in the absence of lawful excuse, even though no spite or ill-will be shown. Kelly v. In-

Proof of corpus delicti in prosecution for libel, see note in 68 L. R. A. 77.

10992. Truth may be given in evidence—Jury to determine law and fact. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted. The jury have the right to determine the law and the fact.

History: En. Sec. 433, Pen. C. 1895; re-en. Sec. 8328, Rev. C. 1907. Cal. Pen. C. Sec. 251.

10993. Publication defined. To sustain a charge of publishing a libel, it is not needful that the words or things complained of should have been read or seen by another. It is enough that the accused knowingly parted

with the immediate custody of the libel, under circumstances which exposed it to be read or seen by any other person than himself.

History: En. Sec. 434, Pen. C. 1895; re-en. Sec. 8329, Rev. C. 1907. Cal. Pen. C. Sec. 252.

10994. Liability of editors and publishers. Each author, editor, or proprietor of any book, newspaper, or serial publication, is chargeable with the publication of any words contained in any part of such book, or number of such newspaper or serial.

History: En. Sec. 435, Pen. C. 1895; re-en. Sec. 8330, Rev. C. 1907. Cal. Pen. C. Sec. 253.

10995. Publishing a true report of public proceedings privileged. No reporter, editor, or proprietor of any newspaper is liable to any prosecution for a fair and true report of any judicial, legislative, or other public official proceedings, or of any statement, speech, argument, or debate in the course of the same, except upon proof of malice in making such report, which is not implied from the mere fact of publication.

History: En. Sec. 436, Pen. C. 1895; re-en. Sec. 8331, Rev. C. 1907. Cal. Pen. C. Sec. 254.

10996. Extent of privilege. Libelous remarks or comments connected with matter privileged by the last section receive no privilege by reason of their being so connected.

History: En. Sec. 437, Pen. C. 1895; re-en. Sec. 8332, Rev. C. 1907. Cal. Pen. C. Sec. 255.

10997. Other privileged communications. A communication made to a person interested in the communication, by any one who was also interested, or who stood in such relation to the former, as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is a privileged communication.

History: En. Sec. 438, Pen. C. 1895; re-en. Sec. 8333, Rev. C. 1907. Cal. Pen. C. Sec. 256.

10998. Threatening to publish libel—Offer to prevent publication, with intent to extort money. Every person who threatens another to publish a libel concerning him, or any parent, husband, wife, or child of such person, or member of his family, and every person who offers to prevent the publication of any libel upon another person, with intent to extort money or other valuable consideration from any person, is guilty of a misdemeanor.

History: En. Sec. 439, Pen. C. 1895; re-en. Sec. 8334, Rev. C. 1907. Cal. Pen. C. Sec. 257.

10999. Giving false information for publication. Any person who wilfully states, delivers, or transmits, by any means whatsoever, to the manager, editor, publisher, or reporter of any newspaper, magazine, publication, periodical, or serial, for publication therein, any false or libelous statement concerning any person or corporation, and thereby secures the actual publication of the same, is hereby declared guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding five hundred dollars, or confined in the county jail not exceeding six months, or both.

History: En. Sec. 1, Ch. 36, L. 1905; re-en. Sec. 8335, Rev. C. 1907.

CHAPTER 23.

RAPE—ABDUCTION—CARNAL ABUSE OF CHILDREN—ADULTERY AND SEDUCTION—PROSTITUTION OF WOMEN.

- Section 11000. Rape Defined.
- 11001. When Physical Ability Must Be Proved.
 - 11002. Penetration Sufficient.
 - 11003. Punishment of Rape.
 - 11004. Abduction of Women.
 - 11005. Lewd and Lascivious Acts Upon Children.
 - 11006. Open and Notorious Adultery and Fornication.
 - 11007. Seduction—Penalty.
 - 11008. Importation and Exportation of Females for Immoral Purposes.
 - 11009. Procuring Women to Reside in Houses of Prostitution or for immoral Purposes a Felony.
 - 11010. Same—Procuring Women for Concubinage and Other Immoral Purposes a Felony.
 - 11011. Receiving Money for Causing Immoral Acts of Women a Felony.
 - 11012. Paying Money for Procuring Women for Immoral Purposes a Felony.
 - 11013. Receiving Money for Procuring Women for Immoral Purposes a Felony.
 - 11014. Unlawful Restraint of Women in Houses of Prostitution and Elsewhere a Felony.
 - 11015. Accepting Money from Earnings of Prostitute a Felony.
 - 11016. Living With a Common Prostitute a Felony.

11000. Rape defined. Rape is an act of sexual intercourse, accomplished with a female, not the wife of the perpetrator, under any of the following circumstances:

1. When the female is under the age of eighteen years.
2. Where she is incapable, through lunacy or any other unsoundness of mind, whether temporary or permanent, of giving legal consent.
3. Where she resists, but her resistance is overcome by violence or force.
4. Where she is prevented from resisting by threats of immediate and great bodily harm, accompanied by apparent power of execution, or by any intoxicating narcotic, or other anesthetic substance, administered by or with the privity of the accused.
5. Where she is, at the time, unconscious of the nature of the act, and this is known to the accused.
6. Where she submits, under a belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with the intent to induce such belief.

History: Ap. p. Sec. 43, p. 184, *Bannack Stat.*; re-en. Sec. 46, p. 277, *Cod. Stat.* 1871; re-en. Sec. 46, 4th Div. Rev. Stat. 1879; re-en. Sec. 46, 4th Div. Comp. Stat. 1887; amd. Sec. 450, *Pen. C.* 1895; re-en. Sec. 8336, *Rev. C.* 1907; amd. Sec. 1, Ch. 16, L. 1913. *Cal. Pen. C. Sec.* 261.

In an indictment for rape, it is not necessary to allege that the female injured is not the wife of the defendant. *State v. Williams*, 9 Mont. 179, 180, 23 Pac. 335; *State v. Morrison*, 46 Mont. 84, 88, 125 Pac. 649.

The question of force is immaterial where the prosecuting witness is under the statutory age of consent. *State v. Bowser*, 21 Mont. 133, 141, 53 Pac. 179.

Where an information in a rape case charges defendant with carnal knowledge of a female under the statutory age of consent, violently, and against her will, and there is ample evidence that the female was under that age, it is not incumbent on the state to also prove that she resisted defendant's assault, and that he violently overcame her resistance, even though it has been so alleged. *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647.

Evidence held insufficient to justify a conviction for rape charged to have been accomplished by violence and force, but rather to show that the prosecuting witness failed to offer any physical resistance which it required force to overcome, within the meaning of subdivision 3 of

this section. *State v. Needy*, 43 Mont. 442, 444, 117 Pac. 102.

An information for rape, alleging that the act was committed by force and against the will and consent of the female, is sufficient, under subdivisions 3 and 4 of this section, and authorizes proof that the act was committed under the circumstances

provided for in either subdivision. *State v. Morrison*, 46 Mont. 84, 88, 125 Pac. 649.

For text treatment of "Rape," see Cal. Jur. and 22 R. C. L. 1169.

Intercourse under marriage with girl below the age of consent as statutory rape, see note in 10 A. L. R. 409.

11001. When physical ability must be proved. No conviction for rape can be had against one who was under the age of sixteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, and beyond a reasonable doubt.

History: En. Sec. 48, 4th Div. Comp. Stat. 1887; re-en. Sec. 451, Pen. C. 1895; re-en. Sec. 8337, Rev. C. 1907. Cal. Pen. C. Sec. 262.

11002. Penetration sufficient. The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

History: En. Sec. 47, 4th Div. Comp. Stat. 1887; re-en. Sec. 452, Pen. C. 1895; re-en. Sec. 8338, Rev. C. 1907. Cal. Pen. C. Sec. 263.

11003. Punishment of rape. Rape is punishable by imprisonment in the state prison not less than two nor more than ninety-nine years.

History: En. Sec. 8339, Rev. C. 1907; amd. Sec. 1, Ch. 10, L. 1909. Cal. Pen. C. Sec. 264.

11004. Abduction of women. Every person who takes any woman unlawfully, against her will, and by force, menace, or duress compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison not less than two nor more than fourteen years.

History: Ap. p. Sec. 52, p. 186, Bannack Stat.; re-en. Sec. 52, p. 278, Cod. Stat. 1871; re-en. Sec. 52, 4th Div. Rev. Stat. 1879; re-en. Sec. 55, 4th Div. Comp. Stat. 1887; amd. Sec. 454, Pen. C. 1895; re-en. Sec. 8340, Rev. C. 1907. Cal. Pen. C. Sec. 265.

For text treatment of "Abduction," see 1 Cal. Jur. 87 and 1 R. C. L. 64.

11005. Lewd and lascivious acts upon children. Any person over the age of eighteen years, who shall wilfully and lewdly commit any lewd or lascivious act, other than the acts constituting other crimes provided in Part I, Title IX, of the Revised Codes of Montana of 1907, upon or with the body or any part or member thereof, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person, or of such child, shall be guilty of a felony, and shall be imprisoned in the state prison not exceeding five years.

History: En. Sec. 1, Ch. 59, L. 1913.

Note.—The above incomplete reference presumably was intended to allude to sec-

tions 8336 to 8344 Revised Codes of 1907; sections 11000 to 11007 of this code.

11006. Open and notorious adultery and fornication. Every person who lives in open and notorious cohabitation, in a state of adultery or fornication, is punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or both.

The intermarriage of the parties subsequent to the commission of the offense is a bar to the prosecution.

Related section: 11029.

History: En. Sec. 457, Pen. C. 1895; re-en. Sec. 8343, Rev. C. 1907. Cal. Pen. C. Sec. 269a.

Note.—For earlier acts see section 127, p. 208, Bannack Statutes; section 146, Fourth Division Revised Statutes 1879; section 161, Fourth Division Compiled Statutes 1887.

Instance of a complaint, charging an offense under this section, having been

filed as required by section 12302. In re Graye, 36 Mont. 394, 400, 93 Pac. 266.

The offense of living together in open and notorious cohabitation, in a state of fornication, is a misdemeanor, and falls within the jurisdiction of a justice of the peace. *Hosoda v. Neville*, 45 Mont. 310, 312, 123 Pac. 20.

Cited or applied as section 457, Penal Code, in *Ledlie v. Wallen*, 17 Mont. 150, 155, 42 Pac. 289.

11007. Seduction—Penalty. Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison not more than five years, or by a fine not more than five thousand dollars, or both. The intermarriage of the parties subsequent to the commission of the offense is a bar to the prosecution.

History: En. Sec. 458, Pen. C. 1895; re-en. Sec. 8344, Rev. C. 1907. Cal. Pen. C. Sec. 268.

11008. Importation and exportation of females for immoral purposes. The importation of women and girls into this state or the exportation of women and girls from this state for immoral purposes is hereby prohibited, and whoever shall induce, entice, or procure, or attempt to induce, entice, or procure, to come in this state, or to go from this state, any woman or girl for the purpose of prostitution or concubinage, or for any other immoral purpose, or to enter any house of prostitution in this state, or any one who shall aid any such woman or girl in obtaining transportation to or within this state, for the purpose of prostitution or concubinage, or for any other immoral purpose, shall be deemed guilty of a felony and, on conviction thereof, shall be deemed guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 1, Ch. 1, L. 1911.

Note.—So much of the foregoing section as related to transportation of women into this state from without the state was held unconstitutional in *State v. Harper*, 48 Mont. 456, 138 Pac. 495.

An attempt to induce a female to take up her residence in another state for immoral purposes, which was complete before transportation had commenced, was punish-

able under this act, and not under the federal statute. *State v. Reed*, 53 Mont. 292, 297, 163 Pac. 477, Ann. Cas. 1917E, 783.

Cited or applied as section 1, chapter 1, Laws of 1911, in *State v. Harper*, 48 Mont. 456, 458, 138 Pac. 495, Ann. Cas. 1915D, 1017, 51 L. R. A. (N. S.) 157; as section 9, chapter 1, Laws of 1911, in *State v. Konokaris*, 54 Mont. 180, 182, 169 Pac. 42.

11009. Procuring women to reside in houses of prostitution or for immoral purposes a felony. Any person who shall place any female in the charge or custody of any other person for immoral purposes or in a house of prostitution or elsewhere with intent that she shall live a life of prostitution; or any person who shall compel or shall induce, entice, or procure, or attempt to induce, entice, procure or compel any female to

reside with him or with any other person for immoral purposes, or for the purpose of prostitution, or shall compel any such female to reside in a house of prostitution, or compel or attempt to induce, entice, procure or compel her to live a life of prostitution, shall be guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 1, L. 1911.

An attempt to induce a female to take up her residence in another state for immoral purposes,*which was complete before

transportation had commenced, was punishable under the Donlan, and not under the Mann, act. State v. Reed, 53 Mont. 292, 163 Pac. 477, Ann. Cas. 1917E, 783.

11010. Same—Procuring women for concubinage and other immoral purposes a felony. Any person who shall induce, entice, or procure, or attempt to induce, entice or procure any woman or girl for the purpose of prostitution or concubinage, or for any other immoral purpose, or to enter any house of prostitution in this state, shall be deemed guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 3, Ch. 1, L. 1911.

11011. Receiving money for causing immoral acts of women a felony. Any person who shall receive any money or other valuable thing for or on account of placing in a house of prostitution or elsewhere any female for the purpose of causing her to cohabit with any male person or persons to whom she is not married shall be guilty of a felony and, upon conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 4, Ch. 1, L. 1911.

11012. Paying money for procuring women for immoral purposes a felony. Any person who shall pay any money or other valuable thing to procure any female for the purpose of placing her for immoral purposes in any house of prostitution or elsewhere, with or without her consent, shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 5, Ch. 1, L. 1911.

11013. Receiving money for procuring women for immoral purposes a felony. Any person who shall knowingly receive any money or other valuable thing for or on account of procuring and placing in the custody of another person for immoral purposes any woman, with or without her consent, shall be guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one

thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 6, Ch. 1, L. 1911.

11014. Unlawful restraint of women in houses of prostitution and elsewhere a felony. Any person who shall hold, detain, restrain, or attempt to hold, detain, or restrain in any house of prostitution or other place, any female for the purpose of compelling such female, directly or indirectly, by her voluntary or involuntary service or labor to pay, liquidate or cancel any debt, dues or obligations incurred in such house of prostitution, or in any other place, shall be deemed guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 7, Ch. 1, L. 1911.

11015. Accepting money from earnings of prostitute a felony. Any person who shall knowingly accept, receive, levy, or appropriate any money or other valuable thing without consideration, from the proceeds or earnings of any woman engaged in prostitution shall be deemed guilty of a felony and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than two years nor more than twenty years, or by fine of not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment. Any such acceptance, receipt, levy, or appropriation of such money or valuable thing shall, upon any proceeding or trial for violation of this section, be presumptive evidence of lack of consideration.

History: En. Sec. 8, Ch. 1, L. 1911.

Where defendant had given his note for money he obtained from a prostitute, he was not guilty of a violation of this section, prohibiting the accepting of money from such persons without consideration, even though he later refused to pay the

note placed in a bank for collection. *State v. Jones*, 51 Mont. 390, 393, 153 Pac. 282.

Knowingly and without consideration taking or receiving from a prostitute any of her earnings is a separate and distinct offense, under this statute, from that of living upon her earnings. *State v. Kanakaris*, 54 Mont. 180, 182, 169 Pac. 42.

11016. Living with a common prostitute a felony. Any male person who shall live with, or in whole or in part upon, the earnings of, or money supplied by a common prostitute or woman of bad repute, shall be guilty of a felony, and, on conviction thereof, shall be punishable by imprisonment in the state prison for a period of not less than one year nor more than twenty years.

History: En. Sec. 9, Ch. 1, L. 1911.

CHAPTER 24.

ABANDONMENT AND NEGLECT OF WIFE AND CHILDREN.

- Section 11017. Abandonment or Failure to Support Wife and Children—Penalty for.
 11018. Orders Which May Be Entered by the Court.
 11019. Certain Proof Made Prima Facie Evidence.
 11020. Desertion or Abandonment of Children a Felony—Suspension of Sentence, When.
 11021. Disposing of Child for Mendicant Business.
 11022. Cruelty to Children.

11017. Abandonment or failure to support wife and children—Penalty for. Every person who:

1. Having any child under the age of sixteen years, dependent upon him or her for care, education or support, wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter or medical attention for his or her child or children, or ward or wards; or,

2. Having sufficient ability to provide for his wife's support, or who is able to earn the means for such wife's support, who wilfully abandons and leaves his wife in a destitute condition, or who refuses or neglects to provide such wife with necessary food, clothing, shelter or medical attendance, unless in the judgment of the court or jury he is justified in abandoning her by her misconduct, shall be guilty of a misdemeanor.

History: En. Sec. 470, Pen. C. 1895; re-en. Sec 8345, Rev. C. 1907; amd. Sec. 1, Ch. 77, L. 1917. Cal. Pen. C. Sec. 270.

11018. Orders which may be entered by the court. In any case enumerated in the previous section, the court may render one of the following orders:

1. Should a fine be imposed, it may be directed by the court to be paid in whole or in part to the wife, or to the guardian or custodian of the child or children, or to an individual appointed by the court as trustee.

2. Before trial, or after conviction, with the consent of the defendant, the court, in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly, during such time as the court may direct, to the wife, or to the guardian, or to the custodian of the minor child or children, or to an individual appointed by the court, and to release the defendant from custody or probation during such time as the court may direct, upon his or her entering into an undertaking, with or without sureties, in such sum as the court may direct; the condition of the undertaking to be such that if the defendant shall make his or her appearance in court whenever ordered to do so, and shall further comply with the terms of the order, and of any subsequent modification thereof, then the undertaking shall be void, otherwise to remain in full force and effect.

3. Where conviction is had, and sentence to imprisonment in the county jail is imposed, the court may direct that the person so convicted shall be compelled to work upon public roads or highways, during the time of such sentence, or such other work as the court may order, and it shall be the duty of the board of county commissioners of the county where such conviction and sentence is had, and where such work is performed by persons under sentence to the county jail, to allow and order the payment out of the current fund, to the wife, or to the guardian, or to the custodian of the child or children, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, child or children, ward or wards, the current wages paid for such labor, less the expense incurred by the county for the maintenance and safekeeping of such convicted person.

History: En. Sec. 2, Ch. 77, L. 1917.

11019. Certain proof made prima facie evidence. Proof of the abandonment or nonsupport of a wife, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a child or children, ward or wards, is prima facie evidence that such abandonment or nonsupport or omission to furnish necessary food, clothing, shelter, or medical attendance is wilful.

History: En. Sec. 3, Ch. 77, L. 1917.

11020. Desertion or abandonment of children a felony—Suspension of sentence, when. Every parent or guardian of any child or children under fifteen years of age who deserts or abandons such child or children without providing necessary and proper shelter, food, care, and clothing for such child or children, shall, upon conviction, be deemed guilty of a felony, and punished by imprisonment in the state prison not exceeding seven years, or by imprisonment in the county jail not exceeding one year. The court may suspend such sentence if the defendant shall furnish a bond in such penal sum, and with such surety or sureties as the court may fix, conditioned that he will furnish his child or children with necessary and proper shelter, food, care, and clothing. In case of failure to comply with the conditions of such bond, the court may order such person to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence or may modify the order and take a new bond and further suspend sentence as may be just and proper.

History: En. Sec. 471, Pen. C. 1895; 8346, Rev. C. 1907; amd. Sec. 1, Ch. 78, L. amd. Sec. 1, Ch. 6, L. 1905; re-en. Sec. 1917. Cal. Pen. C. Sec. 270b.

11021. Disposing of child for mendicant business. Any person, whether as parent, relative, guardian, employer or otherwise, having in his care, custody, or control any child under the age of sixteen years, who shall sell, apprentice, give away, let out, or otherwise dispose of any such child to any person, under any name, title, or pretense, for the vocation, use, occupation, calling, service, or purpose of singing, playing on musical instruments, rope-walking, dancing, begging, or peddling in any public street or highway, or in any mendicant or wandering business whatever, and any person who shall take, receive, hire, employ, use, or have in custody any child for such purposes, or either of them, is guilty of a misdemeanor.

History: Ap. p. Sec. 13, 5th Div. Comp. re-en. Sec. 8347, Rev. C. 1907. Cal. Pen. Stat. 1887; en. Sec. 472, Pen. C. 1895; C. Sec. 272.

11022. Cruelty to children. Every person who has the legal care or custody of an infant, minor child, or apprentice, and cruelly treats, abuses, or inflicts unnecessary and cruel punishment upon the same, or wilfully abandons or neglects such child, is guilty of a misdemeanor.

History: Ap. p. Sec. 11, 5th Div. Comp. en. Sec. 2, Ch. 6, L. 1905; re-en. Sec. 8348, Stat. 1887; amd. Sec. 473, Pen. C. 1895; Rev. C. 1907.

CHAPTER 25.

ABORTION.

- Section 11023.** Administering Drugs, etc., With Intent to Produce Miscarriage.
11024. Submitting to an Attempt to Produce Miscarriage.

11023. Administering drugs, etc., with intent to produce miscarriage. Every person who provides, supplies, or administers to any pregnant woman, or procures any such woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than two nor more than five years.

History: En. Sec. 41, p. 184, Bannack Stat.; amd. Sec. 42, p. 276, Cod. Stat. 1871; re-en. Sec. 42, 4th Div. Rev. Stat. 1879; re-en. Sec. 42, 4th Div. Comp. Stat. 1887; amd. Sec. 480, Pen. C. 1895; re-en. Sec. 8351, Rev. C. 1907. Cal. Pen. C. Sec. 274.

Criminal responsibility of one other than subject for actual perpetration of abortion, see note in 4 A. L. R. 351.

Pregnancy as element of offense of attempt to produce a miscarriage, see note in 10 A. L. R. 314.

For text treatment of "Abortion," see 1 Cal. Jur. 99 and 1 R. C. L. 69.

11024. Submitting to an attempt to produce miscarriage. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than one nor more than five years.

History: En. Sec. 481, Pen. C. 1895; re-en. Sec. 8352, Rev. C. 1907. Cal. Pen. C. Sec. 275.

Criminal responsibility of one on whom abortion is committed for conspiring to commit the crime, see note in 5 A. L. R. 788.

CHAPTER 26.

BIGAMY—INCEST AND CRIME AGAINST NATURE.

- Section** 11025. Bigamy Defined.
 11026. Exceptions.
 11027. Punishment of Bigamy.
 11028. Marrying a Husband or Wife of Another.
 11029. Incest.
 11030. Crime Against Nature.
 11031. Penetration Sufficient to Complete the Crime.

11025. Bigamy defined. Every person having a husband or wife living who marries any other person, except in the cases specified in the next section, is guilty of bigamy.

History: En. Sec. 490, Pen. C. 1895; re-en. Sec. 8353, Rev. C. 1907. Cal. Pen. C. Sec. 281.

Revised Statutes 1879; re-enacted as section 155, Fourth Division Compiled Statutes 1887.

Note.—Earlier acts were section 126, p. 208, Bannack Statutes; re-enacted as section 140, p. 302, Codified Statutes 1871; re-enacted as section 140, Fourth Division

For text treatment of "Bigamy," see 4 Cal. Jur. 336 and 3 R. C. L. 795.

11026. Exceptions. The last section does not extend:

1. To any person by reason of any former marriage, whose husband or wife by such marriage has been absent for five successive years, without being known to such person within that time to be living; nor,
2. To any person by reason of any former marriage which has been

pronounced void, annulled or dissolved by the judgment of a competent court.

History: En. Sec. 491, Pen. C. 1895; to preceding section. Cal. Pen. C. Sec. re-en. Sec. 8354, Rev. C. 1907. See note 282.

11027. Punishment of bigamy. Bigamy is punishable by fine not exceeding two thousand dollars, and by imprisonment in the state prison not exceeding three years.

History: En. Sec. 492, Pen. C. 1895; re-en. Sec. 8355, Rev. C. 1907. Cal. Pen. C. Sec. 283.

11028. Marrying a husband or wife of another. Every person who knowingly and wilfully marries the husband or wife of another, in any case in which such husband or wife would be punishable under the provisions of this chapter, is punishable by fine not less than two thousand dollars, or by imprisonment in the state prison not exceeding three years.

History: Ap. p. Sec. 127, p. 208, Bannack Stat.; re-en. Sec. 141, p. 302, Cod. Stat. 1871; re-en. Sec. 141, 4th Div. Rev. Stat. 1879; re-en. Sec. 156, 4th Div. Comp. Stat. 1887; en. Sec. 493, Pen. C. 1895; re-en. Sec. 8356, Rev. C. 1907. Cal. Pen. C. Sec. 284.

Criminal responsibility of single person who marries one already married, see note in 5 A. L. R. 783.

11029. Incest. Persons within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison not exceeding ten years.

Related section: 11006.

History: En. Sec. 128, p. 209, Bannack Stat.; re-en. Sec. 146, p. 303, Cod. Stat. 1871; re-en. Sec. 146, 4th Div. Rev. Stat. 1879; re-en. Sec. 161, 4th Div. Comp. Stat. 1887; amd. Sec. 494, Pen. C. 1895; re-en. Sec. 8357, Rev. C. 1907. Cal. Pen. C. Sec. 285.

statute is incestuous, and such persons may be prosecuted under the provisions of this section for the crime of fornication. *Territory v. Corbett*, 3 Mont. 50.

In a prosecution for fornication, it is not necessary to prove that defendants were not married to other persons. *Territory v. Jaspas*, 7 Mont. 1, 14 Pac. 647.

A marriage contracted by persons within the degrees of consanguinity prohibited by

For text treatment of "Incest," see Cal. Jur. and 14 R. C. L. 29.

11030. Crime against nature. Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than five years.

History: En. Sec. 496, Pen. C. 1895; re-en. Sec. 8359, Rev. C. 1907. Cal. Pen. C. Sec. 286.

Note.—For earlier acts see section 44, p. 185, Bannack Statutes; re-enacted as section 47, p. 277, Codified Statutes 1871; re-enacted as section 47, Fourth Division Revised Statutes 1879; re-enacted as section 50, Fourth Division Compiled Statutes 1887.

Information held sufficient. *State v. Guerin*, 51 Mont. 250, 252, 152 Pac. 747.

Cited or applied as section 8359, Revised Codes, in *State v. Stone*, 40 Mont. 88, 90, 105 Pac. 89.

For text treatment of "Sodomy," see Cal. Jur. and 8 R. C. L. 333.

11031. Penetration sufficient to complete the crime. Any sexual penetration, however slight, is sufficient to complete the crime against nature.

History: En. Sec. 497, Pen. C. 1895; re-en. Sec. 8360, Rev. C. 1907. Cal. Pen. C. Sec. 287.

Cited or applied as section 8360, Revised Codes, in *State v. Guerin*, 51 Mont. 250, 252, 152 Pac. 747.

CHAPTER 27.

VIOLATING SEPULTURE AND THE REMAINS OF THE DEAD.

- Section 11032. Unlawful Mutilation or Removal of Dead Bodies.
 11033. Unlawful Removal of Dead Body From Grave for Dissection, etc.
 11034. Who Are Charged With the Duty of Burial.
 11035. Punishment for Omitting to Bury.
 11036. Who Are Entitled to Custody of a Body.
 11037. Arresting or Attaching a Dead Body.
 11038. Defacing Tombs or Monuments.

11032. Unlawful mutilation or removal of dead bodies. Every person who mutilates, disinters, or removes from the place of sepulture the dead body of a human being without authority of law is guilty of felony. But the provisions of this section do not apply to any person who removes the dead body of a relative or friend for reinterment.

History: En. Sec. 2, p. 114, L. 1889; For text treatment of "Dead Bodies,"
 amd. Sec. 510, Pen. C. 1895; re-en. Sec. see Cal. Jur. and 8 R. C. L. 683.
 8361, Rev. C. 1907. Cal. Pen. C. Sec. 290.

11033. Unlawful removal of dead body from grave for dissection, etc. Every person who removes any part of the dead body of a human being from any grave or other place where the same has been buried, or from any place where the same has been deposited while awaiting burial, with intent to sell the same, or dissect, without authority of law, or from malice or wantonness, is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 3, p. 114, L. 1889; amd. Sec. 511, Pen. C. 1895; re-en. Sec. 8362,
 Pen. C. 1907. Cal. Pen. C. Sec. 291.

11034. Who are charged with the duty of burial. The duty of burying the body of a deceased person devolves upon the persons hereinafter specified:

1. If the deceased was a married man or woman, the duty devolves upon the husband, or wife.

2. If the deceased was not a married woman, but left any kindred, the duty of burial devolves upon the person or persons in the same degree nearest of kin to the deceased, being of adult age and within this state, if possessed of sufficient means to defray the necessary expenses.

3. If the deceased left no husband or kindred answering the foregoing description, the duty of burial devolves upon the coroner conducting an inquest upon the body of the deceased, if any such inquest is held; if there is none, then upon the persons charged with the support of the poor in the locality in which the death occurs.

4. In case the person upon whom the duty of burial is cast by the foregoing provisions omits to make such burial within a reasonable time, the duty devolves upon the person next specified, and if all omit to act it devolves upon the tenant, or if there is no tenant, then the owner of the premises or master, or if there is no master, upon the owner of the vessel in which the death occurs or the body is found.

History: En. Sec. 512, Pen. C. 1895; re-en. Sec. 8363, Rev. C. 1907. Cal. Pen. C. Sec. 292.

11035. Punishment for omitting to bury. Every person upon whom the duty of making burial of the remains of a deceased person is imposed

by law who omits to perform that duty within a reasonable time is guilty of a misdemeanor, and, in addition to the punishment prescribed therefor, is liable to pay to the person performing the duty in his stead treble the expenses incurred by the latter in making the burial, to be recovered in a civil action.

History: En. Sec. 513, Pen. C. 1895; re-en. Sec. 8364, Rev. C. 1907. Cal. Pen. C. Sec. 293.

11036. Who are entitled to custody of a body. The person charged by law with the duty of burying the body of a deceased person is entitled to the custody of such body for the purpose of burying it, except that in the case in which an inquest is required to be held upon a dead body by a coroner, such coroner is entitled to its custody until such inquest has been completed.

History: En. Sec. 514, Pen. C. 1895; re-en. Sec. 8365, Rev. C. 1907. Cal. Pen. C. Sec. 294.

11037. Arresting or attaching a dead body. Every person who arrests or attaches any dead body of a human being, upon any debt or demand whatever, or detains, or claims to detain it for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor.

History: En. Sec. 515, Pen. C. 1895; re-en. Sec. 8366, Rev. C. 1907. Cal. Pen. C. Sec. 295.

11038. Defacing tombs or monuments. Every person who wilfully and maliciously defaces, breaks, destroys, or removes any tomb, monument, or gravestone erected to any deceased person, or any memento or memorial, or any ornamental plant, tree, or shrub appertaining to the place of burial of a human being, or who shall mark, deface, injure, destroy, or remove any fence, post, rail, or wall, of any cemetery or graveyard, is guilty of a misdemeanor.

History: En. Sec. 1, p. 114, L. 1889; amd. Sec. 516, Pen. C. 1895; re-en. Sec. 8367, Rev. C. 1907. Cal. Pen. C. Sec. 296.

CHAPTER 28.

SUNDRY OFFENSES AGAINST GOOD MORALS.

- Section 11039. Keeping Open Certain Places on Sunday a Misdemeanor.
 11040. Conducting Barber Business on Sunday.
 11041. Penalty.
 11042. Disturbing Religious Meeting.
 11043. Selling Merchandise at Camp-meeting.
 11044. Limitation of Preceding Section.
 11045. Keeping or Resorting to Place Where Opium Is Used.
 11046. Admission of Minor to Place of Prostitution.
 11047. Penalty for Selling Tobacco to Minors.

11039. Keeping open certain places on Sunday a misdemeanor. Every person who on Sunday, or the first day of the week, keeps open or maintains, or who aids in opening or maintaining any dancehall, dancehouse, racetrack, gambling-house or poolroom, variety-hall, or any other place of amusement where any intoxicating liquors are sold or dispensed, is guilty of a misdemeanor; provided, however, that the provisions of this section shall not apply to such dancing-halls or pavilions as are main-

tained or conducted in public parks or playgrounds where no admission is charged, and where good order is maintained, and where no intoxicating liquors are sold.

History: En. Sec. 1, p. 519, Cod. Stat. 1871; re-en. Sec. 849, 5th Div. Rev. Stat. 1879; re-en. Sec. 1406, 5th Div. Comp. Stat. 1887; amd. Sec. 530, Pen. C. 1895; re-en. Sec. 8369, Rev. C. 1907; amd. Sec. 1, Ch. 92, L. 1915. Cal. Pen. C. Sec. 299.

Cited or applied as section 8369, Revised Codes, before amendment, in *State v. Penny*, 42 Mont. 118, 119, 111 Pac. 727; 31 L. R. A. (N. S.) 1155.

11040. Conducting barber business on Sunday. It is unlawful to conduct the business of hair cutting, shaving, or shampooing, or to open barber shops for the doing of such business, on Sunday.

History: En. Sec. 531, Pen. C. 1895; re-en. Sec. 8370, Rev. C. 1907. Cal. Pen. C. Sec. 300.

respect to barbers, see notes in 55 Am. Rep. 556; 1 Ann. Cas. 93; 6 Ann. Cas. 980; Ann. Cas. 1915C, 200; 14 L. R. A. 194; 15 L. R. A. (N. S.) 646; L. R. A. 1917B, 97.

Validity of Sunday closing laws with

11041. Penalty. Any person violating the provisions of this act is guilty of a misdemeanor and upon conviction thereof shall be fined for the first offense not less than fifteen dollars and not to exceed fifty dollars, and for any subsequent violation, a fine not less than twenty-five dollars and not exceeding one hundred dollars shall be imposed.

History: En. Sec. 532, Pen. C. 1895; re-en. Sec. 8371, Rev. C. 1907.

11042. Disturbing religious meeting. Every person who wilfully disturbs or disquiets any assemblage of people met for religious worship by noise, profane discourse, rude or indecent behavior, or by unnecessary noise, either within the place where such meeting is held or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor.

History: En. Sec. 122, p. 207, Bannack Stat.; re-en. Sec. 136, p. 300, Cod. Stat. 1871; re-en. Sec. 136, 4th Div. Rev. Stat. 1879; re-en. Sec. 136, p. 42, L. 1883; re-en.

Sec. 146, 4th Div. Comp. Stat. 1887; amd. Sec. 533, Pen. C. 1895; re-en. Sec. 8372, Rev. C. 1907. Cal. Pen. C. Sec. 302.

11043. Selling merchandise at camp-meeting. Every person who erects or keeps a booth, tent, stall, or other contrivance for the purpose of selling or otherwise disposing of any article of merchandise, or who peddles or hawks about any such article within one mile of any camp or field meeting for religious worship during the time of holding such meeting is punishable by a fine of not less than five nor more than five hundred dollars.

History: En. Sec. 535, Pen. C. 1895; re-en. Sec. 8374, Rev. C. 1907.

Note.—This and the following section rewritten to eliminate that part referring to sale of intoxicating liquors.

11044. Limitation of preceding section. The provisions of the preceding section do not apply to a person carrying on a regular business in the sale of articles of merchandise which business was established prior to the appointment of the meeting referred to in the last section.

History: En. Sec. 536, Pen. C. 1895; re-en. Sec. 8375, Rev. C. 1907.

11045. Keeping or resorting to place where opium is used. Every person who opens or maintains, to be resorted to by other persons, any

place where opium, or any of its preparations is sold, or given away, to be smoked at such place, and any person who at such place sells or gives away any opium, or its preparations, to be there smoked or otherwise used, and every person who visits or resorts to any such place for the purpose of smoking opium, or its preparations, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, or both.

History: En. Sec. 1, p. 65, L. 1881; amd. Sec. 538, Pen. C. 1895; re-en. Sec. re-en. Sec. 165, 4th Div. Comp. Stat. 1887; 8377, Rev. C. 1907. Cal. Pen. C. Sec. 307.

11046. Admission of minor to place of prostitution. Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein, or any parent or guardian of any such minor who shall admit or keep such minor, or sanction or connive at the admission or keeping thereof into or in any such house or room, shall be guilty of a misdemeanor.

History: En. Sec. 539, Pen. C. 1895; re-en. Sec. 8378, Rev. C. 1907. Cal. Pen. C. Sec. 309.

11047. Penalty for selling tobacco to minors. Every person who sells or gives any tobacco, cigars, cigarettes, or cigarette paper to any minor under eighteen years of age, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or imprisonment not to exceed three months in the county jail, or both such fine and imprisonment, in the discretion of the court.

History: En. Sec. 542, Pen. C. 1895; re-en. Sec. 8381, Rev. C. 1907. Cal. Pen. C. Sec. 308.

CHAPTER 29.

INTOXICATING LIQUORS—REGULATIONS GOVERNING MANUFACTURE, SALE, AND USE.

Section 11048. Definition of Terms.

11049. Liquor Traffic Prohibited—Exceptions.

11050. Articles Not Subject to Act—Permits and Regulations.

11051. Analysis—Revocation of Permit—Review of Action.

11052. Sales Without Permit, When Prohibited—Exceptions.

11053. Physicians' and Pharmacists' Prescriptions—Regulation.

11054. Citation and Hearing—Revocation of Permit.

11055. Record of Sales to Be Kept.

11056. Copy of Permits to Be Kept.

11057. Manufacturers' Labels.

11058. Record of Shipment by Carrier—Oath.

11059. Duty to Notify Carrier Contents of Shipment.

11060. Unlawful to Accept Packages With False Statements.

11061. Order for Delivery When Consignee Not Bona Fide.

11062. Advertising Liquor Forbidden—Exceptions.

11063. Sale of Articles for Unlawful Use.

11064. Certain Solicitation Forbidden.

11065. Recovery of Damages for Injury by Intoxicated Person.

11066. Common Nuisance Defined—Misdemeanor—Lien on Premises.

11067. Action to Enjoin Nuisance—Injunction—Order of Court—Bond.

11068. Unlawful Transportation and Sale a Nuisance—Fees—Forfeiture of Lease.

11069. Violation of Injunction Contempt.

- 11070. Unlawful Possession of Liquor—Property Right.
- 11071. Complaint—Search-warrant, Form and Issuance.
- 11072. Form and Execution of Search-warrant.
- 11073. Regulation of Seizure of Vehicles and Destruction of Liquor.
- 11074. Application for Use of Confiscated Liquor for Medicinal Purposes.
- 11075. Penalty for Violation of Act and False Report.
- 11076. Self-Incrimination No Excuse—Exemption.
- 11077. Delivery Where Made by Carrier.
- 11078. Joinder of Offenses—Rules of Pleading.
- 11079. Possession Prima Facie Evidence—Burden of Proof—Compromise of Actions.
- 11080. Inspection of Records by Prosecutor.
- 11081. Effect Partial Invalidity of Act.
- 11082. Storage in Bonded Warehouses—Permit to Develop Liquids.
- 11083. Service of Summons on Owner of Property.
- 11084. Law Enforcement Fund—Application.
- 11085. Appointment, Oath, and Removal of Special Officers.
- 11086. Scope of Act.
- 11087. Regulation, Use, and Sale of Nonbeverage Alcohol.
- 11088. Recording of Permit.
- 11089. Same.
- 11090. Fee for Recording Permit—Revocation.
- 11091. Indorsement by Secretary of State.
- 11092. Penalty—Revocation of Permit.
- 11093. Suits for Revocation of Permit.
- 11094. Scope of Act.
- 11095. "Person" Defined.
- 11096. "Physician" Defined.
- 11097. Physician's Permit to Dispense Intoxicating Liquor.
- 11098. Federal Permits Valid in State.
- 11099. Penalty for Violation of Federal or State Act.
- 11100. Act an Exercise of Police Powers.
- 11101. "Person" Defined.
- 11102. Prohibition Against Dealing in Intoxicating Liquors in Person or as Agent.
- 11103. Restrictions on Use of Intoxicating Liquors in Clubs.
- 11104. Issuance and Execution of Search Warrant—Seizure of Intoxicating Liquors.
- 11105. Hearing of Return—Disposal of Intoxicating Liquor and Other Articles Seized.
- 11106. Duty of Peace Officers to Arrest Offenders and Seize Liquor.
- 11107. Replevin of Liquor and Other Property Forbidden.
- 11108. Fines and Costs a Lien on Property—Disposal of.
- 11109. Duty of Attorney-General, County Attorneys and Others to Issue Subpoena and Investigate Violations of Law—Punishment for Contempt.
- 11110. Fees of Officers and Witnesses.
- 11111. What Shall Be Stated and Proved in Prosecutions.
- 11112. Privileges of Witnesses.
- 11113. Disposal of Forfeited Liquor by Officers Misdemeanor.
- 11114. Receipt of Money by Public Officers for Permission to Violate Law a Felony.
- 11115. Duty of County Attorneys to Prosecute—Penalty.
- 11116. Duty of Peace Officers to Make Known Evidence—Penalty.
- 11117. Procedure for Removal of Public Officers for Failure to Perform Duty.
- 11118. Original Packages of Intoxicating Liquors Not to Be Broken Open—Penalty.
- 11119. Employment of Counsel to Assist Prosecuting Attorneys.
- 11120. Record of Former Conviction Prima Facie Evidence.
- 11121. Punishment for Misdemeanor.
- 11122. Jurisdiction of District Courts.

11048. Definition of terms. When used in this act, or in any other laws of the state relating to intoxicating liquors, the word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whiskey, rum, gin, beer, ale, porter, and wine, and in addition

thereto any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more of alcohol by volume which are fit for use for beverage purposes; provided, that the foregoing definition shall not extend to dealcoholized wine, nor to any beverage or liquid produced by the process by which beer, ale, porter, or wine is produced, if it contains less than one-half of one per centum of alcohol by volume, and is made as prescribed in section 11082 of this code, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the secretary of state may by regulation prescribe.

1. The word "person" shall mean and include natural persons, associations, copartnerships, and corporations.

2. The term "application" shall mean a formal written request supported by a verified statement of facts showing that the secretary of state may grant the request.

3. The term "permit" shall mean a formal written authorization by the secretary of state setting forth specifically therein the things that are authorized.

4. The term "bond" shall mean an obligation authorized or required by or under this act or any regulation, executed in such form and for such a penal sum as may be required by a court, or prescribed by regulation.

5. The term "regulation" shall mean any regulation prescribed by the secretary of state for carrying out the provisions of this act, and the said secretary of state is authorized to make such regulations.

History: En. Sec. 1, Ch. 9, Ex. L. 1921.

For text treatment of "Intoxicating Liquors," see Cal. Jur. and 15 R. C. L. 239.
Test of intoxicating character of liquors, see note in 11 A. L. R. 1233.

Federal constitutional or legislative provisions as to intoxicating liquors as affecting state legislation, see notes in 10 A. L. R. 1587; 11 A. L. R. 1320.

11049. Liquor traffic prohibited—Exceptions. No person shall on or after the date when this act goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish, or possess any intoxicating liquor except as authorized in this act, and all the provisions of this act shall be liberally construed to the end that the use of intoxicating liquors as a beverage may be prevented.

Liquor for nonbeverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished, and possessed, but only as herein provided, and the secretary of state may, upon application, issue permits therefor; provided, that nothing in this act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in government bonded warehouses.

History: En. Sec. 2, Ch. 9, Ex. L. 1921.

11050. Articles not subject to act—Permits and regulations. The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this

act if they correspond with the following descriptions and limitations, namely:

1. Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

2. Medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia, national formulary, or the American institute of homeopathy that are unfit for use for beverage purposes.

3. Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

4. Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

5. Flavoring extracts and sirups that are unfit for use as a beverage, or for intoxicating beverage purposes.

6. Vinegar and preserved sweet cider.

A person who manufactures any of the articles mentioned in this section may purchase and possess liquor for that purpose, but he shall secure permits to manufacture such articles and to purchase such liquor, give the bonds, keep the records, and make the reports specified in this act, as directed by the secretary of state. No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, sirup, or the articles named in paragraphs 2, 3, and 4 of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Any person who shall knowingly sell any of the articles mentioned in paragraphs 1, 2, 3, and 4 of this section for beverage purposes, or any extract or sirup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of one per centum or more of alcohol by volume in which any extract, sirup, or other article is used as an ingredient, shall be subject to the penalties provided in section 11075 of this code. If the secretary of state shall find, after notice and hearing as provided for in section 11054 of this code, that any person has sold any flavoring extract, sirup, or beverage in violation of this paragraph, he shall notify such person, and any known principal for whom the sale was made, to desist from selling such article; and it shall thereupon be unlawful for a period of one year thereafter for any person so notified to sell any such extract, sirup, or beverage without making an application for, giving a bond, and obtaining a permit so to do, which permit may be issued upon such conditions as the secretary of state may deem necessary to prevent such illegal sales, and in addition the secretary of state shall require a record and report of sales.

History: En. Sec. 3, Ch. 9, Ex. L. 1921.

11051. Analysis—Revocation of permit—Review of action. Whenever the secretary of state has reason to believe that any article mentioned in the preceding section does not correspond with the descriptions and limita-

tions therein provided, he shall cause an analysis of said article to be made, and if, upon such analysis, the secretary of state shall find that said article does not so correspond he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said article should not be dealt with as intoxicating liquor, such notice to be served personally or by registered mail as the secretary of state may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

If the manufacturer of said article fails to show to the satisfaction of the secretary of state that the article corresponds to the descriptions and limitations provided in the preceding section, his permit to manufacture and sell such article shall be revoked. The manufacturer may by appropriate proceeding in a court of competent jurisdiction have the action of the secretary of state reviewed, and the court may affirm, modify, or reverse the finding of the secretary of state, as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale, or other disposition of such article.

History: En. Sec. 4, Ch. 9, Ex. L. 1921.

11052. Sales without permit, when prohibited—Exceptions. No one shall manufacture, sell, purchase, transport, or prescribe any liquor without first obtaining a permit from the secretary of state so to do, except that a person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the secretary of state is conducting a bona fide hospital or sanatorium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as the secretary of state shall prescribe, purchase and use in accordance with the methods in use in such institution, liquor to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

All permits to manufacture, prescribe, sell, or transport liquor may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof; provided, that the secretary of state may without formal application or new bond extend any permit granted under this act or laws now in force after August 31 in any year to December 31 of the succeeding year; provided further, that permits to purchase liquor for the purpose of manufacturing or selling as provided in this act shall not be in force to exceed ninety days from the day of issuance. A permit to purchase liquor for any other purpose shall not be in force to exceed thirty days. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this act or any law of the United States or of this state regulating traffic in liquor. No permit shall be issued to anyone to sell liquor at retail, unless the sale is to be made through a pharmacist designated in the permit and duly licensed under the laws of this state to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor

unless he is a physician duly licensed to practice medicine and actively engaged in the practice of such profession. Every permit shall be in writing, dated when issued, and signed by the secretary of state or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed. No permit shall be issued until a verified written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the liquor is to be used.

The secretary of state may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted the secretary of state may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this act. In the event of the refusal by the secretary of state of any application for a permit, the applicant may have a review of his decision before a court of competent jurisdiction in the manner provided in section 11051 of this code.

Nothing in this act shall be held to apply to the manufacture, sale, transportation, importation, possession, or distribution of wine for sacramental purposes, or like religious rites, except section 11052 (save as the same requires a permit to purchase) and section 11055, and the provisions of this act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the gospel, priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest to supervise the manufacture of wine to be used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the secretary of state, be granted a permit to supervise such manufacture.

History: En. Sec. 5, Ch. 9, Ex. L. 1921.

11053. Physicians' and pharmacists' prescriptions—Regulation. No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor, and no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought, or if such examination is found impracticable, then upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "canceled," together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the secretary of state, which shall show the date of issue, amount prescribed, to whom issued, the purpose or ailment for which it is to be used and directions for use, stating the amount and frequency of the dose; providing nothing herein contained shall be construed as authorizing the issuance of permit to prescribe, sell, or transport beer or any malt beverage containing more than one-half of one per centum of alcohol by volume, but the transportation, sale, or prescription or use of any beer or malt beverage containing more than one-half of one per centum of alcohol by volume is hereby expressly forbidden.

History: En. Sec. 6, Ch. 9, Ex. L. 1921.

11054. Citation and hearing—Revocation of permit. If at any time there shall be filed with the secretary of state a complaint under oath setting forth facts, or if the secretary of state has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this act, or has violated the laws of the state relating to intoxicating liquor, the secretary of state or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the secretary of state with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person has been guilty of wilfully violating any such laws, as charged, or has not in good faith conformed to the provisions of this act, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the secretary of state, the permittee may have a review of his decision before a court of competent jurisdiction in the manner provided in section 11051 of this code. During the pendency of such action such permit shall be temporarily revoked.

History: En. Sec. 7, Ch. 9, Ex. L. 1921.

11055. Record of sales to be kept. No person shall manufacture, purchase for sale, sell, or transport, any liquor without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured, purchased, sold, or transported, together with the names and addresses of the persons to whom sold, in case of sale, and the consignor and consignee in case of transportation, and the time and place of such manufacture, sale, or transportation. The secretary of state may prescribe the form of such record, which shall at all times be open to inspection as in this act provided.

History: En. Sec. 8, Ch. 9, Ex. L. 1921.

11056. Copy of permits to be kept. All manufacturers and wholesale or retail druggists shall keep as a part of the records required of them a

copy of all permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having permits to purchase in such quantities.

History: En. Sec. 9, Ch. 9, Ex. L. 1921.

11057. Manufacturers' labels. All persons manufacturing liquor for sale under the provisions of this act shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof; and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized.

History: En. Sec. 10, Ch. 9, Ex. L. 1921.

11058. Record of shipment by carrier—Oath. It shall be the duty of every carrier to make a record at the place of shipment of the receipt of any liquor transported, and he shall deliver liquor only to persons who present to the carrier a verified copy of a permit to purchase which shall be made a part of the carrier's permanent record at the office from which delivery is made.

The agent of the common carrier is hereby authorized to administer the oath to the consignee in verification of the copy of the permit presented, who, if not personally known to the agent, shall be identified before the delivery of the liquor to him. The name and address of the person identifying the consignee shall be included in the record.

History: En. Sec. 11, Ch. 9, Ex. L. 1921.

11059. Duty to notify carrier contents of shipment. It shall be unlawful for a person to use or induce any carrier, or any agent or employee thereof, to carry or ship any package or receptacle containing liquor without notifying the carrier of the true nature and character of the shipment. No carrier shall transport nor shall any person receive liquor from a carrier unless there appears on the outside of the package containing such liquor the following information:

Name and address of the consignor or seller, name and address of the consignee, kind and quantity of liquor contained therein, and number of the permit to purchase or ship the same, together with the name and address of the person using the permit.

History: En. Sec. 12, Ch. 9, Ex. L. 1921.

11060. Unlawful to accept packages with false statements. It shall be unlawful for any consignee to accept or receive any package containing any liquor upon which appears a statement known to him to be false, or for any carrier or other person to consign, ship, transport, or deliver any such package, knowing such statement to be false.

History: En. Sec. 13, Ch. 9, Ex. L. 1921.

11061. Order for delivery when consignee not bona fide. It shall be unlawful to give to any carrier or any officer, agent, or person acting or assuming to act for such carrier an order requiring the delivery to any person of any liquor or package containing liquor consigned to or purporting or claimed to be consigned to a person, when the purpose of the order is to enable any person not an actual bona fide consignee to obtain such liquor.

History: En. Sec. 14, Ch. 9, Ex. L. 1921.

11062. Advertising liquor forbidden—Exceptions. It shall be unlawful to advertise anywhere, or by any means or method, liquor, or the manufacture, sale, keeping for sale or furnishing of the same, or where, how, from whom, or at what price the same may be obtained. No one shall permit any sign or billboard containing such advertisement to remain upon one's premises. But nothing herein shall prohibit manufacturers and wholesale druggists holding permits to sell liquor from furnishing price-lists, with description of liquor for sale, to persons permitted to purchase liquor, or from advertising alcohol in business publications or trade journals circulating generally among manufacturers of lawful alcoholic perfumes, toilet preparations, flavoring extracts, medicinal preparations, and like articles; provided, however, that nothing in this act shall apply to newspapers published in foreign countries when mailed to this country.

History: En. Sec. 15, Ch. 9, Ex. L. 1921.

11063. Sale of articles for unlawful use. It shall be unlawful to advertise, manufacture, sell or possess for sale any utensil, contrivance, machine, preparation, compound, tablet substance, formula direction, or recipe advertised, designated, or intended for use in the unlawful manufacture of intoxicating liquor.

History: En. Sec. 16, Ch. 9, Ex. L. 1921.

11064. Certain solicitation forbidden. No person shall solicit or receive, nor knowingly permit his employee to solicit or receive, from any person any order for liquor or give any information of how liquor may be obtained in violation of this act.

History: En. Sec. 17, Ch. 9, Ex. L. 1921.

11065. Recovery of damages for injury by intoxicated person. Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a right of action against any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed to such intoxication, and in any such action such person shall have a right to recover actual and exemplary damages. In case of the death of either party, the action or right of action given by this section shall survive to or against his or her executor or administrator, and the amount so recovered by either wife or child shall be his or her sole and separate property. Such action may be brought in any court of competent jurisdiction. In any case where parents shall be entitled to

such damages, either the father or mother may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other.

History: En. Sec. 18, Ch. 9, Ex. L. 1921.

11066. Common nuisance defined—Misdemeanor—Lien on premises.

Any room, house, building, boat, vehicle, structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered in violation of this act, and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned not less than thirty days nor more than six months. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of liquor contrary to the provisions of this act, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation, and any such lien may be enforced by action in any court having jurisdiction.

History: En. Sec. 19, Ch. 9, Ex. L. 1921.

11067. Action to enjoin nuisance—Injunction—Order of court—Bond.

An action to enjoin any nuisance defined in this act may be brought in the name of the state of Montana by the attorney-general of the state or by any county attorney. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear by affidavits or otherwise, to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation of this act constituting such nuisance. No bond shall be required in instituting such proceedings. It shall not be necessary for the court to find the property involved was being unlawfully used as aforesaid at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no liquor shall be manufactured, sold, bartered, or stored in such room, house, building, boat, vehicle, structure, or place, or any part thereof. And upon judgment of the court ordering such nuisance to be abated, the court may order that the room, house, building, structure, boat, vehicle, or place shall not be occupied or used for one year thereafter; but the court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than five hundred dollars nor more than one thousand dollars, payable to the state of Montana, and conditioned that intoxicating liquor will not thereafter be manufactured, sold, bartered, kept, or otherwise disposed of therein or thereon,

and that he will pay all fines, costs, and damages that may be assessed for any violation of this act upon said property.

History: En. Sec. 20, Ch. 9, Ex. L. 1921.

11068. Unlawful transportation and sale a nuisance—Fees—Forfeiture of lease. Any person who shall, with intent to effect a sale of liquor, by himself, his employee, servant, or agent, for himself or any person, company, or corporation, keep or carry around on his person, or in a vehicle, or other conveyance whatever, or leave in a place for another to secure, any liquor, or who shall travel to solicit, or solicit, or take, or accept orders for the sale, shipment, or delivery of liquor in violation of this act, is guilty of a nuisance and may be restrained by injunction, temporary and permanent, from doing or continuing to do any of said acts or things.

In such proceedings it shall not be necessary to show any intention on the part of the accused to continue such violations if the action is brought within sixty days following any such violation of the law.

For removing and selling property in enforcing this act the officer shall be entitled to charge and receive the same fee as the sheriff of the county would receive for levying upon and selling property under execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Any violation of this act upon any leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease.

History: En. Sec. 21, Ch. 9, Ex. L. 1921.

11069. Violation of injunction contempt. In the case of the violation of any injunction, temporary or permanent, granted pursuant to the provisions of this act, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which such injunction issued information under oath setting out the alleged facts constituting the violation, whereupon the court or judge shall forthwith cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. Any person found guilty of contempt under the provisions of this section shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment.

History: En. Sec. 22, Ch. 9, Ex. L. 1921.

11070. Unlawful possession of liquor—Property right. It shall be unlawful to have or possess any liquor or property designed for the manufacture of liquor intended for use in violating this act or which has been so used, and no property right shall exist in any such liquor or property.

History: En. Sec. 23, Ch. 9, Ex. L. 1921.

11071. Complaint—Search-warrant, form and issuance. Whenever complaint is made in writing, verified by affidavit, to any judge having

cognizance of criminal offenses, that complainant has just and probable cause to believe and does believe that intoxicating liquor is manufactured, kept for sale, used, disposed of, or transported in violation of any law of this state in any house, building, premises, boat, aeroplane, vehicle, receptacle or any other place whatsoever (particularly describing and designating the same) with the facts upon which such belief is based, the judge may issue a search-warrant as hereinafter provided; provided, however, no search-warrant shall issue to search any private dwelling occupied as such unless being used for the unlawful sale of intoxicating liquor, or unless is in part used for some business purpose such as store, shop, saloon, restaurant, hotel, or boarding-house. The term "private dwelling" shall be construed to include the room or rooms used and occupied not transiently, but solely as a residence in an apartment-house, hotel, or boarding-house. The property seized on any such warrant shall not be taken from the officer seizing the same on any writ of replevin or other like process. Each complaint may be substantially in the following form:

State of Montana)
County of) ss.

Complaint for Search-Warrant.

The complaint and affidavit of (name of complainant) of (his residence) made before (name of officer) one of the (official title of officer) in and for said (county, city or village, as the case may be) on this the day of 19..., who, being first duly sworn, upon his oath says: that he has just and probable cause to believe and does believe that intoxicating liquor is now unlawfully (manufactured, kept for sale, used, disposed of, or transported, as the case may be) to wit: At and within a certain (here describe the house, building, premises, boat, aeroplane, vehicle, receptacle, or other place, to be searched, with particulars as to its location sufficiently to identify it, stating the name of the person occupying the same, if known) in the (city, village or town) of in the county and state aforesaid; and that the following are the reasons for his belief, to wit: (here insert the facts upon which such belief is based).

Wherefore, he prays that a search-warrant may issue according to law.

.....
(Signature of complainant.)

Subscribed and sworn to before me this day of, 19...

.....
(Official title of officer.)

.....
(Official title of officer.)

History: En. Sec. 24, Ch. 9, Ex. L. 1921.

11072. Form and execution of search-warrant. If the judge before whom any such complaint is made is satisfied that there is probable cause for such belief, he shall issue a warrant directed to any peace officer having jurisdiction, whom the complainant may designate, commanding him in the day time to forthwith enter the house, building, premises, boat, aeroplane, vehicle, receptacle, or other place therein described and design-

nated (which shall be particularly described and designated in the warrant as in the complaint) and make diligent and careful search for intoxicating liquor and if any intoxicating liquor be there found, to seize the same, with the vessels containing the same, and all implements, furniture and vehicles kept or used for the purpose of violating or with which to violate, any law of this state or of the United States and bring the same, and any and all persons (if any there be) in whose possession they are found, before the judge who issued the warrant, or in case of his absence or inability to act, before some other judge having cognizance of the case. Such warrant may be substantially in the form prescribed in section 12400 of this code.

History: En. Sec. 25, Ch. 9, Ex. L. 1921.

11073. Regulation of seizure of vehicles and destruction of liquor.

When any officer of the law shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the provisions of this act in any court having competent jurisdiction; but the said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by the court having jurisdiction of the case and shall be conditioned to return said property to the custody of said officer on the day of the trial to abide the judgment of the court. The court upon conviction of the person so arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay the balance of the proceeds into the treasury of the county in which the violation occurred. All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with the description thereof, shall be advertised in some newspaper published in the city or county where taken, or if there be no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the last publication of the advertisement, the property shall be sold and

the proceeds after deducting the expenses and costs shall be paid into the treasury of the county in which the violation occurred.

History: En. Sec. 26, Ch. 9, Ex. L. 1921.

Constitutionality of statute providing for confiscation or destruction, without notice, of intoxicating liquors, and vehicles or other property used in connection with same, see note in 8 A. L. R. 888.

Constitutionality of statute providing for forfeiture of property upon which intoxicating liquor is manufactured or sold, see note in 10 A. L. R. 1591.

11074. Application for use confiscated liquor for medicinal purposes. In all cases in which intoxicating liquors may be subject to be destroyed under the provisions of this act the court shall have jurisdiction upon the application of the attorney-general or county attorney to order them delivered to any department, institution, or agency of the state or county, for medicinal, mechanical, or scientific uses, or to order the same sold at private sale for such purposes to any person having a permit to purchase liquor, the proceeds to be paid into the treasury of the county in which the violation occurred, and all liquor heretofore seized in any suit or proceeding brought for violation of law may likewise be so disposed of.

History: En. Sec. 27, Ch. 9, Ex. L. 1921.

11075. Penalty for violation of act and false report. Any person who manufactures or sells liquor in violation of this act shall for a first offense be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned in the county jail not less than thirty days nor more than six months, and for a second or subsequent offense shall be fined not less than two hundred dollars nor more than two thousand dollars and be imprisoned not less than six months nor more than two years in the state prison.

Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this act, or violates any of the provisions of this act, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than five hundred dollars; for a second offense not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not more than ninety days; for any subsequent offense he shall be fined not less than five hundred dollars and be imprisoned not less than three months nor more than two years in the state prison, and in addition have his license to do business revoked, in the case of a manufacturer or pharmacist, and to have his license to practice revoked, in the case of a physician. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information, or indictment. The penalties provided in this act against the manufacture of liquor without a permit shall not apply to a person for manufacturing nonintoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar.

History: En. Sec. 28, Ch. 9, Ex. L. 1921.

11076. Self-incrimination no excuse—Exemption. No person shall be excused, on the ground that it may tend to incriminate him or subject

him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court if any suit or proceeding based upon or growing out of any alleged violation of this act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or an account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

History: En. Sec. 29, Ch. 9, Ex. L. 1921.

11077. Delivery where made by carrier. In case of a sale of liquor where the delivery thereof was made by a common or other carrier the sale and delivery shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county wherein the sale was made, or from which the shipment was made, the prosecution of such sale or delivery may be had in any such county.

History: En. Sec. 30, Ch. 9, Ex. L. 1921.

11078. Joinder of offenses—Rules of pleading. In any affidavit, information, or indictment for the violation of this act, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not be construed to preclude the trial court from directing and furnishing the defendant a bill of particulars when it deems it proper to do so.

History: En. Sec. 31, Ch. 9, Ex. L. 1921.

11079. Possession prima facie evidence—Burden of proof—Compromise of actions. After the passage and approval of this act, the possession of liquors by any person not legally permitted under this act to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this act; but it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein; and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed and used.

The attorney-general, or the county attorney of any county in which any action or proceeding is pending, may compromise any civil cause arising under this title before bringing action in court, and he may compromise any such cause after action thereon has been commenced.

History: En. Sec. 32, Ch. 9, Ex. L. 1921.

11080. Inspection of records by prosecutor. All records and reports kept or filed under the provisions of this act shall be subject to inspection at any reasonable hour by any public prosecutor or by any person designated by him, or by any peace officer in the state, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the original thereof, and verified copies of such records shall be furnished to the attorney-general or county attorney when called for.

History: En. Sec. 33, Ch. 9, Ex. L. 1921.

11081. Effect partial invalidity of act. If any provision of this act shall be held invalid it shall not be construed to invalidate other provisions of the act.

History: En. Sec. 34, Ch. 9, Ex. L. 1921.

11082. Storage in bonded warehouses—Permit to develop liquids. Nothing herein shall prevent the storage in United States bonded warehouses of all liquor manufactured prior to the taking effect of this act, or prevent the transportation of such liquor to such warehouses or to any wholesale druggist for sale to such druggist for purposes not prohibited when the tax is paid, and permits may be issued therefor.

A manufacturer of any beverages containing less than one-half of one per centum of alcohol by volume may, on making application and giving such bond as the secretary of state shall prescribe, be given a permit to develop in the manufacture thereof by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter or wine, containing more than one-half of one per centum of alcohol by volume, but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic contents thereof shall, under such rules and regulations the secretary of state may prescribe, be reduced below such one-half of one per centum of alcohol; provided, that such liquid be removed and transported, under bond and under such regulations as the secretary of state may prescribe, from one bonded plant or warehouse to another for the purpose of having the alcohol extracted therefrom. And such liquids may be developed, under permit, by persons other than the manufacturers of beverages containing less than one-half of one per centum of alcohol by volume, and sold to such manufacturers for conversion into such beverages.

In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any malt, vinous, or fermented liquids containing one-half of one per centum or more of alcohol by volume, or in any case where the manufacturer, having been permitted by the secretary of state to develop a liquid such as ale, beer, porter or wine containing more than one-half of one per centum of alcohol by volume in the manner and for the purpose herein provided, is charged with failure to reduce the alcoholic content of any such liquid below such one-half of one per centum before withdrawing the same from the factory, then in either such case the burden of proof shall be on such manufacturer to show that such liquid so manufactured, sold, or withdrawn contains less than one-half of one per centum of alcohol by volume. In any suit or proceeding

involving the alcoholic content of any beverage, the reasonable expenses of analysis of such beverage shall be taxed as costs in the case.

History: En. Sec. 35, Ch. 9, Ex. L. 1921.

11083. Service of summons on owner of property. In all cases wherein the property of any citizen is proceeded against or wherein a judgment affecting it might be rendered, and the citizen is not the one who in person violated the provisions of the law, summons must be issued in due form and served personally, if said person is to be found within the jurisdiction of the court.

History: En. Sec. 36, Ch. 9, Ex. L. 1921.

11084. Law enforcement fund—Application. There is hereby created a fund to be known as the "law enforcement fund." All fines must be applied to the payment of the costs of the case in which the fine is imposed, and after such costs are so deducted from the fine the balance of such fine and all other receipts from penalties, confiscations, and forfeitures for violation of the law relating to intoxicating liquors, and from the sales of all property seized, confiscated, and sold under such laws shall be paid over to the county treasurer of the county in which such violation or sale occurred, and such county treasurer shall credit fifty per cent. thereof to the common school fund of such county, and the remaining fifty per cent. thereof shall be by said county treasurer transmitted to the state treasurer and by such state treasurer deposited to the credit of the law enforcement fund. The term "costs" as herein used shall mean to include all costs incurred in connection with the arrest and all costs for the maintenance of the defendant or defendants where a fine and jail sentence is imposed.

History: En. Sec. 37, Ch. 9, Ex. L. 1921.

11085. Appointment, oath, and removal of special officers. The state board of examiners may appoint such special officers, not to exceed six in number, for the purpose of enforcing the laws relating to intoxicating liquors; such special officers shall have the same powers as sheriffs concerning the enforcing of the laws relating to intoxicating liquors, and shall receive such compensation as the board of examiners may prescribe, which shall be paid out of the "law enforcement fund"; provided, however, that such special officers shall not be paid from any other fund or funds.

Such special officers shall be appointed in writing by the state board of examiners, and before entering upon their duties shall take and subscribe the oath of office in the same manner as a sheriff.

The state board of examiners may remove such special officers from office at any time.

History: En. Sec. 38, Ch. 9, Ex. L. 1921.

11086. Scope of act. Chapter 39 of the laws of the fourteenth legislative assembly, chapter 175 of the laws of the fifteenth legislative assembly, and sections 2, 6, 15, 22, 23, 24, 25, 26, 28, 30, 31, 32, 35, 36, and 38 of chapter 143 of the laws of the fifteenth legislative assembly, chapter 53 of the laws of the twelfth legislative assembly, chapter 130 of the laws

of the fifteenth legislative assembly, and chapters 164 and 182 of the laws of the sixteenth legislative assembly of the state of Montana, and all acts and parts of acts in conflict herewith, are hereby repealed; provided, however, that except as herein otherwise specified, this act shall be construed as supplemental to and a part of all laws of this state relating to intoxicating liquors.

History: En. Sec. 39, Ch. 9, Ex. L. 1921.

11087. Regulation, use, and sale of nonbeverage alcohol. Any person to whom has been issued a permit to use, purchase, obtain, or sell nonbeverage alcohol for medicinal, scientific, or manufacturing purposes under the terms and provisions of an act of the 66th congress enacted into law on the 28th day of October, 1919, entitled "An Act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," may use, purchase, obtain, or sell such nonbeverage alcohol for medicinal, scientific, or manufacturing purposes, as provided for in said permit, upon compliance with this act.

History: En. Sec. 1, Ch. 255, L. 1921.

Note.—Chapters 255 and 267, Laws of 1921, are included in this code, pending judicial determination as to whether or not they are repealed by implication by Chapter 9, Ex. L. of 1921.

11088. Recording of permit. Every person to whom has been issued a permit as described in the preceding section shall record such permit or a certified copy thereof with the secretary of state, and it shall thereupon be lawful for said person to use, purchase, obtain, or sell such nonbeverage alcohol for medicinal, scientific, or manufacturing purposes only, as authorized by such permit, and it shall thereupon be lawful for such person to use, purchase, obtain, or sell such nonbeverage alcohol for medicinal, scientific, or manufacturing purposes only, as authorized in such permit.

History: En. Sec. 2, Ch. 255, L. 1921.

11089. Same. Every person to whom has been issued a permit as described in section 11087, and every person to whom has been issued a permit as described in section 11088, shall record said permit, or a certified copy thereof, with the secretary of state, and it shall thereupon be lawful for said person to use, purchase, obtain, or sell such nonbeverage alcohol for scientific, medicinal, or manufacturing purposes only, as authorized in such permit, and it shall thereupon be lawful for such person to use, purchase, obtain, or sell such nonbeverage alcohol for medicinal, scientific, or manufacturing purposes only, as authorized in such permit.

History: En. Sec. 3, Ch. 255, L. 1921.

11090. Fee for recording permit—Revocation. The secretary of state, upon payment to him of the sum of two dollars, shall record, by separately copying each of said permits, or certified copies of permits, in a book kept by him for that purpose, and shall consecutively number each of said permits, or certified copy thereof, in said book, as the same are received

When the recording of said permits, or certified copies thereof, has been revoked, as hereinafter provided, the secretary of state, upon proof being presented to him of said revocation, shall, opposite the number in said book of said recorded permit or certified copy, indicate said revocation and the date thereof.

History: En. Sec. 4, Ch. 255, L. 1921.

11091. Indorsement by secretary of state. The secretary of state must endorse over his signature upon each permit, or certified copy of permit, so recorded by him, the date of recording, and the number given to said permit, or certified copy thereof, and upon request shall deliver it to the party leaving the same with him for record.

History: En. Sec. 5, Ch. 255, L. 1921.

11092. Penalty—Revocation of permit. A conviction, under said act of congress or any state law relating to intoxicating liquors, of any person holding a permit, such as herein described, shall revoke the recording of said permit.

History: En. Sec. 6, Ch. 255, L. 1921.

11093. Suits for revocation of permit. The attorney-general, or a county attorney, or any taxpayer within the state of Montana may, at any time, commence an action against any person who has recorded such a permit, to cancel the recording thereof, and said recording shall be canceled upon the showing of a violation of the terms of said permit.

History: En. Sec. 7, Ch. 255, L. 1921.

11094. Scope of act. Nothing herein contained shall amend or repeal or conflict with any of the provisions of the law relating to the introduction, sale and use of intoxicating liquors, adopted by the vote of the people of the state of Montana, known as chapter 175 of the laws of the fifteenth legislative assembly, or of any of the provisions of chapter 143, acts of the fifteenth legislative assembly, except so far as the same shall apply to the introduction, use and sale of nonbeverage alcohol for medicinal, scientific or manufacturing purposes, as in this act provided.

History: En. Sec. 8, Ch. 255, L. 1921.

11095. "Person" defined. The term "person" as used in this act shall mean and include any individual, firm, copartnership and every corporation, joint stock company and association.

History: En. Sec. 1, Ch. 267, L. 1921. See note to Sec. 11087.

11096. "Physician" defined. The word "physician" as used in this act shall mean and include a person to whom has been duly and regularly issued a certificate by the board of medical examiners of the state of Montana permitting said person to practice medicine or surgery within the state of Montana.

History: En. Sec. 2, Ch. 267, L. 1921.

11097. Physician's permit to dispense intoxicating liquor. Any physician to whom has been issued a permit to use, prescribe, dispose of, purchase, sell, or obtain intoxicating liquors for medicinal purposes under

the terms and provisions of an act of the sixty-sixth congress, enacted into law on the twenty-eighth day of October, 1919, entitled, "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," may lawfully use, prescribe, dispose of, purchase, sell, or obtain intoxicating liquors for medicinal purposes, as provided for in said permit.

History: En. Sec. 3, Ch. 267, L. 1921.

11098. Federal permits valid in state. Any person to whom has been issued a permit to sell or dispose of intoxicating liquors for medicinal purposes under the terms and provisions of an act of the sixty-sixth congress enacted into law on the twenty-eighth day of October, 1919, entitled, "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," may lawfully sell, dispose of, transport, or import intoxicating liquors for medicinal purposes as provided for in said permit, providing that nothing herein contained will compel any retail druggist or pharmacist to handle whiskey, rum, brandy, ale, beer, wine, or any compound thereof capable of use as a beverage.

History: En. Sec. 4, Ch. 267, L. 1921.

11099. Penalty for violation of federal or state act. Any person violating the provisions of this act, or the terms and provisions of an act of the sixty-sixth congress, enacted October 28, 1919, entitled, "An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," shall, upon conviction thereof, be fined for a first offense in a sum not more than five hundred dollars; for a second offense, not less than one hundred nor more than one thousand dollars, and in addition to have his license to practice revoked, in the case of a physician, or to have his license to do business revoked in the case of a druggist.

History: En. Sec. 5, Ch. 267, L. 1921.

Construction and effect of Volstead act, see note in 10 A. L. R. 1553.

11100. Act an exercise of police powers. This entire act shall be deemed an exercise of the police power of the state, for the protection of the economic welfare, health, peace, and morals of the people of the state, and all of its provisions shall be liberally construed for the accomplishment of that purpose.

History: En. Sec. 1, Ch. 143, L. 1917.

A proceeding under this act is one in rem against the liquors, etc., for their condemnation as forfeited property, the complaint being in the nature of a libel. *State ex rel. Prato v. District Court*, 55 Mont. 560, 565, 179 Pac. 497.

See *State v. Centennial Brewing Co.*, 55 Mont. 500, 511, 179 Pac. 296, construing prohibition act adopted by the people, subsequently repealed by chapter 9, Extra Laws 1921.

11101. "Person" defined. The word "person" shall be held and construed to mean natural persons, firms, copartnerships, corporations, and all associations of natural persons, whether acting by themselves or by a servant, agent, or employee.

History: En. Sec. 3, Ch. 143, L. 1917.

11102. Prohibition against dealing in intoxicating liquors in person or as agent. It shall be unlawful for any person to act as an agent for any wholesale or retail liquor house, brewery, or distillery, in any manner whatever, either for transmitting orders for any such wholesale or retail liquor house, brewery, or distillery, or for the purpose of distributing any of their intoxicating liquors the sale of which is prohibited by the laws of this state; or to take or solicit orders for the purchase or sale of any such intoxicating liquor, either in person, or by sign, circular, letter, poster, handbill, card, price list, advertisement, or otherwise, or to distribute, publish, or display any advertisement, sign, or notice naming, representing, designating, or referring to the quality or qualities of any intoxicating liquor, or giving the name or address of any manufacturer dealing in intoxicating liquor, or stating where any such liquor may be obtained, or to possess or receive any intoxicating liquor except as provided in this act. A violation of any of the provisions of this section shall be deemed a misdemeanor.

History: En. Sec. 4, Ch. 143, L. 1917.

11103. Restrictions on use of intoxicating liquors in clubs. It shall be unlawful for any person to directly or indirectly keep or maintain by himself, or by association with others, or to in any manner whatever aid, assist, or abet in keeping or maintaining any clubhouse or other place in which intoxicating liquor is received or kept for the purpose of use, gift, barter, or sale, or for the purpose of distribution or division among the members of any club or association, or to purchase or order any intoxicating liquor except as provided in this act. But any affidavit or testimony given by any person purchasing or ordering such prohibited liquors shall not be used against the person so testifying or making such affidavit. A violation of any of the provisions of this section shall be deemed a misdemeanor.

History: En. Sec. 5, Ch. 143, L. 1917.

Dispensing liquor as within power of clubs, see note in 5 A. L. R. 1192.

11104. Issuance and execution of search warrant—Seizure of intoxicating liquors. If upon the sworn complaint of any person, it shall be made to appear to any judge of the district court that there is probable cause to believe that intoxicating liquor is being manufactured, sold, exchanged, given away, bartered, or otherwise disposed of, or kept contrary to law, such judge shall, with or without the approval of the county attorney, issue a warrant directed to any peace officer in the county, commanding him to search the premises designated and described in such complaint and warrant, and to seize all intoxicating liquor there found, together with the vessels in which it is contained, and all implements, furniture, fixtures, and other articles used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing, or otherwise disposing of such liquor, and to safely keep the same, and to make a return of said warrant within three days, showing all

acts and things done thereunder, with a particular statement of all liquor, implements, furniture, fixtures, and other articles seized, and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of the same, the return shall so state. No warrant shall be issued to search a private dwelling occupied as such, unless some part of it is used as a store or shop, hotel or boarding house, or for any other purpose than a private residence, or unless such residence is a place of public resort. A copy of said warrant shall be served upon the person or persons found in possession of any such intoxicating liquor, furniture, fixtures, or articles so seized, and if no person be found in possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same were found, or if there be no door, then in any conspicuous place upon the premises.

History: En. Sec. 7, Ch. 143, L. 1917.

Where a complaint in proceedings under this chapter alleged that defendant had contraband liquors deposited at No. 601 of a certain street, and a search-warrant was issued to search such premises, and the officer searched the premises at No. 603 on that street, seizing, among other things, a small amount of liquor, the departure was fatal to the validity of the proceedings, and a judgment of dismissal was proper. *State v. Malarky*, 57 Mont. 132, 187 Pac. 635.

The authority of an officer conferred by

a search-warrant is not to be extended by construction to any case not clearly covered by the statute. *State v. Malarky*, 57 Mont. 132, 187 Pac. 635.

Cited or applied as section 7, chapter 143, Laws of 1917, in *State ex rel. Prato v. District Court*, 55 Mont. 560, 563, 179 Pac. 497.

Constitutional guaranties against unreasonable searches and seizures as applied to search for or seizure of intoxicating liquors, see notes in 3 A. L. R. 1514; 13 A. L. R. 1316.

11105. Hearing of return—Disposal of intoxicating liquor and other articles seized. Upon the return of the warrant as provided in the last preceding section, the judge shall fix a time, not less than ten days nor more than twenty days thereafter, for the hearing of said return, when the court shall proceed to hear and determine whether or not the implements, furniture, or fixtures, or other articles so seized, or any part thereof, were used or in any manner kept or possessed by any person with the intention of violating any of the provisions of the laws of this state relating to intoxicating liquors. At such hearing any person claiming any interest in any of the implements, furniture, fixtures, or other articles seized, may appear and be heard upon filing a verified claim setting forth particularly the character and extent of his interest, but upon each hearing the sworn complaint or affidavit upon which the search warrant was issued and the possession of such intoxicating liquor shall be prima facie evidence of the contraband character of the liquor and implements, furniture, fixtures, and other articles seized, and the burden shall rest upon the claimant to show, by competent evidence, his property right or interest therein, and that the same were not used in violation of, and were not in any manner kept or possessed with the intention of violating any of the provisions of the laws of this state relating to intoxicating liquors. If, upon such hearing, the evidence warrants, or if no person shall appear as claimant, the court shall thereupon enter a judgment of forfeiture and order such intoxicating liquor, implements, furniture, fixtures, and articles destroyed forthwith by the officer having custody of the same at the time of adjudication; provided, however, the judge may, in his discretion, appoint a special officer for the purpose of executing the

judgment of forfeiture by destroying said liquor and property; provided, further, however, that if in the opinion of the judge any of such forfeited property, other than intoxicating liquor, is of value and adapted to any lawful use, such judge shall, as a part of the order and judgment, direct that such property, other than intoxicating liquor, shall be sold as upon execution by the officer having them in custody, and the proceeds of such sale, after the payment of all costs of such proceeding, shall be paid into the common school fund of the school district in which the same were seized. Action under this section and the forfeiture, destruction, or sale of any property thereunder, shall not be a bar to any prosecution under any other provision or provisions of the laws of this state relating to intoxicating liquors.

History: En. Sec. 8, Ch. 143, L. 1917.

The question for determination in a proceeding under this act is whether any of the articles seized was used, kept, or possessed by any person with the intention of violating the prohibitory liquor law. *State v. Kelly et al.*, 57 Mont. 123, 187 Pac. 637; *State v. Nielsen*, 57 Mont. 137, 187 Pac. 639.

In proceedings of the nature of the above, the affidavit upon which the search-warrant is issued and the possession of the

liquors at the time of their seizure are prima facie evidence of their contraband character, the burden then resting upon the claimant to show his property right and interest therein and that they were not used, kept, or possessed with the intention of violating the prohibition laws. *State v. Nielsen*, 57 Mont. 137, 187 Pac. 639.

Cited or applied as section 8, chapter 143, Laws of 1917, in *State ex rel. Prato v. District Court*, 55 Mont. 560, 564, 179 Pac. 497.

11106. Duty of peace officers to arrest offenders and seize liquor.

When any violation of any provisions of the laws of this state relating to intoxicating liquors shall occur in the presence of any sheriff, constable, marshal, or other officer having power to serve criminal process, it shall be the duty of such officer, without warrant, to arrest the offender, and to seize the liquor, bars, furniture, fixtures, vessels, and appurtenances thereunto belonging, so unlawfully used, and to take such offender immediately before the court or judge having jurisdiction in the premises and there make complaint under oath, charging the offense so committed, and he shall also make return setting forth a particular description of the liquor and property seized and of the place where the same was so seized, whereupon the court or judge shall issue a warrant commanding and directing the officer to hold in his possession the property so seized, until discharged by process of law, and such property shall be held and a hearing or adjudication on said return had in like manner as if the seizure had been made under a warrant therefor.

History: En. Sec. 9, Ch. 143, L. 1917.

11107. Replevin of liquor and other property forbidden. No liquor, vessels, fixtures, furniture, or other property seized by authority of any warrant issued under the provisions of this act shall be taken from the possession of the officer seizing the same under any replevin or other process.

History: En. Sec. 10, Ch. 143, L. 1917.

11108. Fines and costs a lien on property—Disposal of. All fines and costs assessed against any person for any violation of any of the provisions of the laws of this state relating to intoxicating liquors, shall be a lien upon the real estate of such person until paid; and in case any person

shall let or lease any building or premises, and shall knowingly suffer the same to be used and occupied for the manufacture or sale of intoxicating liquor contrary to any of the provisions of the laws of this state relating to intoxicating liquors, the premises so leased and occupied shall be subject to a lien for, and may be sold to pay all fines and costs assessed against any such occupant for any violation of this act; and such liens may be enforced by civil action in any court having jurisdiction; provided, that the person against whom such fines and costs are assessed shall be committed to the jail of the county until such fines and costs are paid.

History: En. Sec. 11, Ch. 143, L. 1917.

11109. Duty of attorney-general, county attorneys and others to issue subpoena and investigate violations of law—Punishment for contempt. If a county attorney or deputy county attorney of any county or attorney-general or assistant attorney-general shall be notified by any officer, or other person, or shall have knowledge of any violation of any of the provisions of the laws of this state relating to intoxicating liquors, it shall be his duty forthwith diligently to inquire into the facts of such violation, and for that purpose he is hereby authorized to issue subpoenas for such persons as he shall have reason to believe have any information concerning, or knowledge of such violation, to appear before him, at a time and place to be designated in the subpoena, then and there to testify concerning any violation of any of the provisions of such laws; or said county attorney may file with some justice of the peace of the county a written statement, signed by such county attorney, deputy county attorney, attorney-general or assistant attorney-general, alleging any violation of the laws of this state relating to intoxicating liquors, and such justice of the peace shall then, upon the written praecipe of the county attorney, deputy county attorney, attorney-general or assistant attorney-general, issue a subpoena for the witnesses named in such praecipe, commanding such witnesses to be and appear before such justice of the peace, at a time designated in such subpoena, to testify concerning any violations of the provisions of said laws. Such subpoenas may be served by the sheriff or any constable of the county, or by any other person who is a citizen of the county, and shall be served and returned to such county attorney, deputy county attorney, attorney-general or assistant attorney-general, or the justice of the peace, in the same manner that subpoenas are served and returned when issued by justices of the peace. Each witness shall be sworn true answers to make to all questions propounded to him touching the matters under investigation, and the testimony of each witness shall be reduced to writing and signed by the witness. For the purpose of this act, the county attorney, deputy county attorney, attorney-general or assistant attorney-general are authorized and empowered to administer oaths and affirmations to such witnesses. Any disobedience to the subpoena of the county attorney, deputy county attorney, attorney-general or assistant attorney-general, or any refusal to be sworn as a witness, or to sign the testimony given by such witness, or any refusal to answer any proper question propounded by the county attorney, deputy county attorney, attorney-general or assistant attorney-general, shall be a misdemeanor, and any person convicted thereof shall be punished by a fine of not more than

three hundred dollars or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment.

Justices of the peace, when acting under the provisions of this act, shall have power to adjourn such proceedings from time to time, and to punish any witness for contempt for or on account of his refusal to be sworn or to answer questions as a witness, or to sign his testimony; and the attendance of witnesses may be by such justice of the peace compelled by attachment. If the testimony so taken shall disclose the fact that an offense has been committed, the county attorney, deputy county attorney, attorney-general or assistant attorney-general, shall prosecute the person or persons committing such offense, and may file such testimony together with his information against the person or persons having committed the offense, in some court of competent jurisdiction, and such testimony, together with the information of the county attorney, deputy county attorney, attorney-general or assistant attorney-general, when verified by him on information and belief, shall have the same effect as if such information had been verified positively, and thereupon a warrant shall be issued for the arrest of the person or persons named in the information as in other criminal cases.

History: En. Sec. 12, Ch. 143, L. 1917.

11110. Fees of officers and witnesses. Officers shall receive the same fees and mileage for serving subpoenas issued by county attorneys, deputy county attorneys, attorney-general or assistant attorney-general under the provisions of this act, as provided in criminal cases, and witnesses shall receive the same fees for attendance as provided for witnesses in cases before justices of the peace. Such fees shall be certified to the board of county commissioners by the county attorney or attorney-general and paid by the county as witness fees for attendance before a justice of the peace. All witnesses shall attend upon the county attorney, deputy county attorney, attorney-general, or assistant attorney-general in pursuance to their subpoenas without the payment of any fees in advance.

History: En. Sec. 13, Ch. 143, L. 1917.

Since this chapter does not provide that the costs of the proceeding incident to the seizure of contraband liquors may be taxed against the party claiming them, it is error to so tax them. *State v. Kelly et al.*, 57 Mont. 123, 187 Pac. 637.

If costs are recoverable in a proceeding of the nature of the above, they must be paid by the county from the sale of the property seized, provided any of such property is of the character which may be sold. *State v. Kelly et al.*, 57 Mont. 123, 187 Pac. 637.

11111. What shall be stated and proved in prosecutions. In prosecutions under the laws of this state relating to intoxicating liquors, by complaint, indictment, or information, it shall not be necessary to state the kind of liquor manufactured, sold, exchanged, given away, bartered, or disposed of; and it shall not be necessary to describe the place where sold, exchanged, given away, bartered, or disposed of, except in prosecutions for keeping and maintaining a common nuisance, or when a lien is sought to be established against the premises where such liquors were manufactured, sold, exchanged, given away, bartered, or disposed of; and it shall not be necessary to state the name of the person to whom sold, exchanged, given away, bartered or disposed of; and in all cases the person or persons to whom such intoxicating liquor shall have been sold,

exchanged, given away, bartered or disposed of, contrary to law, shall be competent witnesses to prove such fact or any other fact tending thereto; and the members, shareholders or associates in any club or association shall be competent witnesses to prove any violation of the laws of this state relating to intoxicating liquors, or any fact tending thereto.

History: En. Sec. 14, Ch. 143, L. 1917.

11112. Privileges of witnesses. In any action or proceeding under any of the laws of this state relating to the unlawful manufacture or disposition or possession of intoxicating liquor, no person shall be excused from testifying in any court, or before any grand jury, or before any county attorney, deputy county attorney, attorney-general, assistant attorney-general, or justice of the peace, on the ground that his testimony may incriminate him, but no person shall be prosecuted or punished on account of any transaction, matter or thing concerning which he shall be compelled to testify, nor shall such testimony be used against him in any prosecution for any crime or misdemeanor, under the laws of this state relating to intoxicating liquors.

History: En. Sec. 16, Ch. 143, L. 1917.

11113. Disposal of forfeited liquor by officers, misdemeanor. Any officer whose duty it is to destroy liquors forfeited to the state, who shall dispose of such forfeited liquor in any other manner than is provided by this act, shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

History: En. Sec. 17, Ch. 143, L. 1917.

11114. Receipt of money by public officers for permission to violate law a felony. No officer of this state, or of any county, township, city, or municipal corporation, shall either accept or receive, directly or indirectly, any property, money, or anything of value, either for himself or for another, or for the state, county, township, city, town, or municipal corporation, for or in consideration of any agreement or understanding, expressed or implied, of any kind, character, or nature whatsoever, that any person shall be permitted to violate any provision of any of the laws of this state relating to intoxicating liquors, or shall, because of the payment or delivery of any such money, property, or anything of value, either by way of fine, license, permit, or otherwise, receive or secure immunity from arrest, prosecution, or punishment therefor. Any such officer, elective or appointive, wilfully violating any provision of this section, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state penitentiary for not less than ninety days nor more than five years.

History: En. Sec. 18, Ch. 143, L. 1917.

11115. Duty of county attorneys to prosecute—Penalty. It shall be the duty of the county attorneys and deputy county attorneys, in their respective counties, diligently to attend all inquisitions held under the provisions of this act and diligently to prosecute all violations of the laws of this state relating to intoxicating liquors of which they may have or can

obtain knowledge, and to bring all suits and actions for the recovery of fines, penalties, and forfeitures provided for by any provision of law; and any county attorney or deputy county attorney refusing, neglecting, or failing to perform any duties required by the provisions of the laws of this state relating to intoxicating liquors may be removed from office as hereinafter provided.

History: En. Sec. 19, Ch. 143, L. 1917.

11116. Duty of peace officers to make known evidence—Penalty. It shall be the duty of all sheriffs, deputy sheriffs, constables, mayors, marshals, and police officers of any city or town, having notice or knowledge of the violation of any of the provisions of the laws of this state relating to intoxicating liquors, to notify the county attorney of the fact of any violation and to furnish him with the names of any persons within their knowledge by whom such violation can be proven. For the failure, refusal, or neglect of official duty in the enforcement of the provisions of the laws of this state relating to intoxicating liquors, any of the city, township, or county officers herein mentioned may be removed from office as hereinafter provided.

History: En. Sec. 20, Ch. 143, L. 1917.

11117. Procedure for removal of public officers for failure to perform duty. If any county attorney, deputy county attorney, sheriff, deputy sheriff, constable, mayor, marshal, or police officer shall fail, neglect, or refuse to do or perform any duty required by the provisions of the laws of this state relating to intoxicating liquors, he shall be removed from office as hereinafter provided; for the purpose of such removal a petition may be filed in the district court of such county wherein such officer resides, in the name of the state, on the relation by any citizen thereof, or upon the recommendation of a grand jury, or on the relation of the board of county commissioners, or of the attorney-general. Summons shall be issued and proceedings had therein to final judgment as in other civil cases; provided, however, if an order is made suspending such officer from his office as hereinafter provided, he shall be entitled to demand and have trial within ten days, if the court be in session. If the court be not in session, then the accused shall be entitled to demand and have a trial within the first ten days of the next term. A change of judge or a change of venue shall be allowed as in other civil cases. Pending the trial of such case application may be made by the relator therein, or by the attorney-general, to any judge of the supreme court, or of the district court wherein such case is pending, for an order suspending said officer from his office during the pendency of said suit, and after reasonable notice to said defendant of such application and an opportunity to show cause, if any there be, in opposition thereto, if it shall appear to the satisfaction of such judge that such officer has failed, neglected, or refused to perform the duties required of him by law, then it shall be the duty of such judge to enter an order suspending such officer from office until final trial of the case, and in such order said judge shall appoint a proper person to hold office and perform all the duties thereof during the suspension. Appeal shall be allowed in any such case as in other civil cases.

History: En. Sec. 21, Ch. 143, L. 1917.

11118. Original packages of intoxicating liquors not to be broken open—Penalty. It shall be unlawful for any person to break open any original package or packages in which liquors are shipped, or for any express agent, freight agent, or employee thereof, or other employee of any railroad company or express company or other common carrier, to allow any original package or packages in which liquors are shipped, the sale of which is prohibited by the laws of this state, to be broken open or divided in any manner upon the premises of such company under the supervision of such agent or employee, and the violation of any provision of this section shall be a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than three hundred dollars, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment.

History: En. Sec. 27, Ch. 143, L. 1917.

11119. Employment of counsel to assist prosecuting attorneys. Any citizen or organization within this state may employ an attorney to assist the prosecuting attorney in any action or proceeding under any of the laws of this state relating to intoxicating liquors, and such attorney shall be recognized by such prosecuting attorney and the court as associate counsel in the case, and no prosecution shall be dismissed over the objection of such associate counsel until the reasons of such prosecuting attorney for such dismissal, together with the objections, if any of such associate counsel, shall have filed in writing, argued by counsel, and fully considered by the court.

History: En. Sec. 29, Ch. 143, L. 1917.

11120. Record of former conviction prima facie evidence. The journal entry of judgment, or the docket or judgment-roll, or other proper court record showing the former conviction of the defendant within the state of Montana, shall be prima facie evidence of a former conviction of the defendant.

History: En. Sec. 33, Ch. 143, L. 1917.

11121. Punishment for misdemeanor. Whenever a violation of any provision of this act is made a misdemeanor and the punishment is not prescribed, such punishment shall be a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment not more than six months, or by both such fine and imprisonment.

History: En. Sec. 34, Ch. 143, L. 1917.

11122. Jurisdiction of district courts. The district courts shall have original jurisdiction in all criminal actions for violations of the provisions of this act, and in all civil actions for the recovery or enforcement of fines, penalties, and forfeitures provided for in this act, and all such actions, both criminal and civil, shall be instituted, prosecuted, and tried in the district court.

History: En. Sec. 37, Ch. 143, L. 1917.

The proceeding instituted under the search and seizure statute is one in rem against the seized liquors for their condemnation as forfeited property, is of purely statutory origin and summary in

character. *State v. Kelly et al.*, 57 Mont. 123, 187 Pac. 637.

The party claiming liquors seized under the provisions of this chapter is not entitled to a trial by jury. *State v. Kelly et al.*, 57 Mont. 123, 187 Pac. 637.

CHAPTER 30.

MAINTENANCE OF COMMON NUISANCES IN CONNECTION WITH THE SALE OF INTOXICATING LIQUORS, OPIUM, PROSTITUTION, AND GAMBLING.

- Section 11123. Definition of "Person" and "Building."
 11124. Certain Buildings Declared Nuisances.
 11125. County Attorney to Abate Nuisance—When Warrant May Issue.
 11126. Verification of Complaint—Temporary Injunction.
 11127. Precedence of Actions—Dismissal—Costs.
 11128. Violation of Injunction—Punishment.
 11129. Order of Abatement—Sale of Fixtures—Closing of Building—Fees—Service.
 11130. Proceeds of Sale, How Applied.
 11131. Owner May Give Bond—Terms of Bond—Release of Property.
 11132. Fine a Lien on Building.
 11133. Repealing Clause.

11123. Definition of "person" and "building." The term "person" as used in this act shall be deemed and held to mean and include individuals, corporations, associations, partnerships, trustees, lessees, agents, and assignees. The term "building" as used in this act shall be deemed and held to mean and include so much of any building or structure of any kind as is or may be entered through the same outside entrance.

History: En. Sec. 1, Ch. 95, L. 1917.

While the prior definition of a nuisance is enlarged, no new remedy is created, and the effect of this law is not to supplant the attorney-general as a proper party who may invoke the remedy on behalf of the state, but to extend the law by conferring

upon a private citizen the right, and upon the county attorney the duty, to suppress the nuisances defined. State ex rel. Ford v. Young, 54 Mont. 401, 404, 170 Pac. 947.

For text treatment of "Nuisance," see Cal. Jur. and 20 R. C. L. 376.

11124. Certain buildings declared nuisances. Every building or place used for the purpose of lewdness, assignation, or prostitution, and every building or place wherein or upon which acts of lewdness, assignation, or prostitution are held or occur, and any building wherein gambling is carried on or occurs, contrary to any of the laws of the state of Montana, or wherein any wine rooms are conducted or maintained, contrary to the laws of the state of Montana, or wherein any opium or coca leaves, their salts, derivatives, and preparations thereof are sold or given away or used contrary to the laws of the state of Montana, is a nuisance which shall be enjoined, abated, and prevented as hereinafter provided, whether the same be a public or private nuisance.

History: En. Sec. 2, Ch. 95, L. 1917; amd. Sec. 1, Ch. 76, L. 1921.

Cited or applied as section 2, chapter 95, Laws of 1917, in State ex rel. Ford v. Young, 54 Mont. 401, 402, 170 Pac. 947.

11125. County attorney to abate nuisance—When warrant may issue. Whenever there is a reason to believe that such nuisance is kept, maintained, or exists in any county of the state of Montana, the county attorney must, or any citizen of the county may, maintain an action in equity in the name of the state of Montana upon the relation of such county attorney or citizen as the case may be to abate and prevent such nuisance and to perpetually enjoin the person or persons conducting or maintaining the same, and the owner, lessee, or agent of the building, or place, in or upon which such nuisance exists, from directly or indirectly maintaining or permitting such nuisance.

No warrant shall be issued against the owner of a private dwelling occupied as such, unless some part of it is used as a store or shop, hotel or boarding-house, or for any other purpose than a private residence, or unless such residence is a place of public resort.

History: En. Sec. 3, Ch. 95, L. 1917.

Laws of 1917, in State ex rel. Ford v. Young, 54 Mont. 401, 402, 170 Pac. 947.

Cited or applied as section 3, chapter 95,

11126. Verification of complaint—Temporary injunction. The complaint in such action must be verified unless filed by the county attorney. Whenever the existence of such nuisance is shown in such action to the satisfaction of the court or judge thereof, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and prevent the continuance or recurrence of such nuisance.

History: En. Sec. 4, Ch. 95, L. 1917.

11127. Precedence of actions—Dismissal—Costs. The action when brought shall have precedence over all other actions, excepting criminal proceedings, election contests, and hearings on injunction, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of said nuisance. If the complaint is filed by a citizen, it shall not be dismissed by the plaintiff or for want of prosecution except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal ordered by the court. In case of failure to prosecute any such action with the reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any such citizen consenting thereto for such plaintiff. If the action is brought by a citizen and the court finds there was no reasonable ground or cause for said action, the costs shall be taxed against such citizen.

History: En. Sec. 5, Ch. 95, L. 1917.

11128. Violation of Injunction—Punishment. Any violation or disobedience of either any injunction or order expressly provided for by this act shall be punished as a contempt of court by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

History: En. Sec. 6, Ch. 95, L. 1917.

11129. Order of abatement—Sale of fixtures—Closing of buildings—Fees—Service. If the existence of the nuisance be established in an action as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, musical instruments, gambling paraphernalia, and movable property used in conducting, maintaining, aiding, or abetting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year; unless sooner released, as hereinafter provided. While such order remains in effect as to closing, such building or place shall be and remain in the custody of the court. For removing and selling the movable

property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises, and keeping them closed, a reasonable sum shall be allowed by the court; provided, however, that any such fixtures, musical instruments, goods, wares, or merchandise, or other movable property, which has not been the active means of conducting such nuisance, shall, at any time prior to the sale thereof by the sheriff as above provided, be subject to attachment or execution at the instance of a bona fide creditor of the owner thereof, and may be subjected to bankruptcy or insolvency proceedings, the same as if such order of abatement had not been entered. When any such writ of attachment, execution, or other process is placed in the sheriff's hands for service upon any such property, his possession thereof under the order of abatement shall thereupon be deemed to be possession under such writ or process and equivalent to levy, attachment, and seizure thereof.

History: En. Sec. 7, Ch. 95, L. 1917; estate of a nuisance maintained thereon
amd. Sec. 1, Ch. 59, L. 1919. by another to subject him to the operation
of a statute providing for abatement of
nuisances, see note in 12 A. L. R. 431.

Necessity of knowledge by owner of real

11130. Proceeds of sale, how applied. The proceeds of the sale of the property, as provided in the preceding section, shall be applied as follows:

1. To the fees and costs of such removal and sale.
2. To the allowance and costs of so closing and keeping closed such building or place.
3. To the payment of the plaintiff's costs in such action.
4. The balance, if any, shall be paid into the common school fund of the school district in which the said property was seized.

If the proceeds of such sale do not fully discharge all such costs, fees, and allowances, the said building and place shall then also be sold under execution issued upon the order of the court or judge and the proceeds of such sale applied in like manner.

History: En. Sec. 8, Ch. 95, L. 1917.

11131. Owner may give bond—Terms of bond—Release of property.

If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees, and allowances which are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court or judge, conditioned that he will immediately abate any such nuisance that may exist at such building or place and prevent the same from being established or kept thereat within a period of one year thereafter, the court, or judge thereof, may, if satisfied of his good faith, order the premises closed, under the order of abatement, to be delivered to said owner, and said order of abatement canceled so far as the same may relate to said property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law.

History: En. Sec. 9, Ch. 95, L. 1917.

11132. Fine a lien on building. Whenever the owner of a building or place upon which the act or acts constituting the contempt shall have

been committed, or of any interest therein has been guilty of a contempt of court and fined therefor in any proceedings under this act, such fine shall be a lien upon such building and place to the extent of the interest of such person therein enforceable and collectible by execution issued by the order of the court.

History: En. Sec. 10, Ch. 95, L. 1917.

11133. Repealing clause. All acts and parts of acts in conflict with the provisions of this act are hereby repealed; provided, that nothing herein shall be construed as repealing any laws of the state of Montana for the suppression of lewdness, assignation, and prostitution, or for the suppression and prevention of gambling, or the suppression and regulation of winerooms.

History: En. Sec. 11, Ch. 95, L. 1917.

CHAPTER 31.

OBSCENE LITERATURE—INDECENT EXPOSURE—HOUSES OF ILL-FAME— PROHIBITION OF CERTAIN ADVERTISEMENTS.

- | | |
|---------|---|
| Section | 11134. Obscene Literature Not to Be Given to or Sold by Minors. |
| | 11135. Penalty. |
| | 11136. Indecent Exposures, Exhibitions, and Pictures. |
| | 11137. Seizure of Indecent Articles Authorized. |
| | 11138. Their Character to Be Summarily Determined. |
| | 11139. Their Destruction. |
| | 11140. Keeping or Residing in a House of Ill-Fame. |
| | 11141. Keeping Disorderly Houses. |
| | 11142. Advertising to Produce Miscarriage. |
| | 11143. Enticing to Place of Gambling or Prostitution. |
| | 11144. Prohibition Against a Certain Class of Advertisements. |
| | 11145. Distribution of Circulars. |
| | 11146. Penalties. |
| | 11147. Same. |
| | 11148. Production of Advertisement Prima Facie Evidence of Guilt. |

11134. Obscene literature not to be given to or sold by minors. It is unlawful for any person to sell, lend, give away, or show, or have in his possession with intent to sell or give away or to show or advertise or otherwise offer for loan, gift, or distribution, to any minor child, under the age of sixteen years, any book, pamphlet, magazine, newspaper, lewd picture, story paper, or other printed paper, devoted to the publication or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of lust or crime. It is unlawful to exhibit upon any street or highway, or in any place within the view of any minor child under the age of sixteen years, or to hire, use, employ, or permit such child to sell or give away or in any manner distribute any such book, pamphlet, magazine, lewd picture, newspaper, story paper, or publication.

History: En. Secs. 1, 2, p. 255, L. 1891; Unlawfulness of obscene literature, see
amd. Sec. 560, Pen. C. 1895; re-en. Sec. note in 24 L. R. A. 110.
8391, Rev. C. 1907.

11135. Penalty. Every person violating any of the provisions of the next preceding section is guilty of a misdemeanor.

History: En. Sec. 561, Pen. C. 1895; re-en. Sec. 8392, Rev. C. 1907.

11136. Indecent exposures, exhibitions and pictures. Every person who wilfully and lewdly either:

1. Exposes his person, or the private parts thereof, in any public place or in any place where there are other persons present to be offended or annoyed thereby; or,

2. Procures, counsels, or assists any person to expose himself, or to take part in any model artist exhibition, or to make any other exhibition of himself to public view, or to the view of any number of persons such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts; or,

3. Writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, or book, or designs, copies, draws, engraves, paints, or otherwise prepares any obscene or indecent picture or print, or moulds, cuts, casts, or otherwise makes any obscene or indecent figure; or,

4. Writes, composes, or publishes any notice or advertisement of any such writing, paper, book, picture, print, or figure; or,

5. Sings any lewd or obscene song, ballad, or other words in any public place or in any place where there are persons present to be annoyed thereby, is guilty of a misdemeanor.

History: En. Sec. 562, Pen. C. 1895; re-en. Sec. 8393, Rev. C. 1907. Cal. Pen. C. Sec. 311.

11137. Seizure of indecent articles authorized. Every person who is authorized or enjoined to arrest any person for a violation of subdivision three of the last section, is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, print, or figure found in possession, or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested, is required to be taken.

History: En. Sec. 563, Pen. C. 1895; re-en. Sec. 8394, Rev. C. 1907. Cal. Pen. C. Sec. 312.

11138. Their character to be summarily determined. The magistrate to whom any obscene or indecent writing, paper, book, picture, print or figure is delivered pursuant to the foregoing section must, upon the examination of the accused, or, if the examination is delayed or prevented, without awaiting such examination, determine the character of such writing, paper, book, picture, print or figure, and if he finds it to be obscene or indecent, he must deliver one copy to the county attorney of the county in which the accused is liable to trial, and must at once destroy all the other copies.

History: En. Sec. 564, Pen. C. 1895; re-en. Sec. 8395, Rev. C. 1907. Cal. Pen. C. Sec. 313.

11139. Their destruction. Upon the conviction of the accused, such county attorney must cause any writing, paper, book, picture, print or figure, in respect whereof the accused stands convicted and which remains in the possession or under the control of such county attorney, to be destroyed.

History: En. Sec. 565, Pen. C. 1895; re-en. Sec. 8296, Rev. C. 1907. Cal. Pen. C. Sec. 314.

11140. Keeping or residing in a house of ill-fame. Every person who keeps a house of ill-fame in this state, resorted to for the purposes of

prostitution or lewdness or who wilfully resides in such house is guilty of a misdemeanor.

Related section: 11521.

History: En. Sec. 566, Pen. C. 1895; re-en. Sec. 8397, Rev. C. 1907. Cal. Pen. C. Sec. 315.

Mont. 557, 121 Pac. 291; Ann. Cas. 1913B, 712.

Cited or applied as section 8397, Revised Codes, in *Andrieux v. City of Butte*, 44

Disorderly character of house as affected by the number of females who reside therein or resort thereto for immoral purposes, see note in 12 A. L. R. 529.

11141. Keeping disorderly houses. Every person who keeps any disorderly house or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn in a disorderly manner, and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor.

History: En. Sec. 567, Pen. C. 1895; re-en. Sec. 8398, Rev. C. 1907. Cal. Pen. C. Sec. 316.

11142. Advertising to produce miscarriage. Every person who wilfully writes, composes or publishes any notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement or otherwise, to assist in the accomplishment of such purpose is guilty of a misdemeanor.

History: En. Sec. 568, Pen. C. 1895; re-en. Sec. 8399, Rev. C. 1907. Cal. Pen. C. Sec. 317.

11143. Enticing to place of gambling or prostitution. Whoever through invitation or device prevails upon any person to visit any room, building, or other places kept for the purpose of gambling or prostitution is guilty of a misdemeanor.

History: En. Sec. 569, Pen. C. 1895; re-en. Sec. 8400, Rev. C. 1907. Cal. Pen. C. Sec. 318.

11144. Prohibition against a certain class of advertisements. No newspaper or other paper published or circulated in whole or in part within the state of Montana shall contain advertisements of cures, appliances, or treatments for certain diseases or disorders, to-wit: stricture, syphilis, impotency, gonorrhoea, emissions, and so-called "lost manhood," and other private diseases of men and women, and their complications.

History: En. Sec. 1, Ch. 191, L. 1907; Sec. 8401, Rev. C. 1907.

11145. Distribution of circulars. It is hereby made unlawful to distribute any circulars, dodgers or advertising matter whatsoever advertising remedies for the cure of any of the diseases mentioned in section 11144 of this code.

History: En. Sec. 2, Ch. 191, L. 1907; Sec. 8402, Rev. C. 1907.

11146. Penalties. The person advertising, as well as the proprietor, editor, or any person in charge of any newspaper or printing establishment, violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor

more than five hundred dollars, or by imprisonment in the county jail for not more than six months.

History: En. Sec. 3, Ch. 191, L. 1907; Sec. 8403, Rev. C. 1907.

11147. Same. Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter hereinabove prohibited shall be guilty of a misdemeanor and punished as prescribed in the preceding section.

History: En. Sec. 4, Ch. 191, L. 1907; Sec. 8404, Rev. C. 1907.

11148. Production of advertisement prima facie evidence of guilt. The production of any advertisement or advertising matter published or distributed contrary to the provisions of this act shall be, of itself, prima facie evidence of the guilt of the person or persons advertising to cure any such disease hereinabove mentioned, or of the publishers who publishes any matter such as is herein prohibited.

History: En. Sec. 5, Ch. 191, L. 1907; Sec. 8405, Rev. C. 1907.

CHAPTER 32.

LOTTERIES.

- Section 11149. Lottery Defined.
 11150. Punishment for Drawing Lottery.
 11151. Punishment for Selling Lottery Tickets.
 11152. Aiding Lotteries.
 11153. Lottery Offices—Advertising Lottery Offices.
 11154. Insuring Lottery Tickets—Publishing Offers to Insure.
 11155. Property Offered for Disposal in Lottery Forfeited.
 11156. Letting Building for Lottery Purposes.
 11157. Lotteries Out of This State.
 11158. Punishment.

11149. Lottery defined. A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.

History: En. Sec. 580, Pen. C. 1895; For text treatment of "Lotteries," see re-en. Sec. 8406, Rev. C. 1907. Cal. Pen. C. Cal. Jur. and 17 R. C. L. 1208. Sec. 319.

11150. Punishment for drawing lottery. Every person who contrives, prepares, sets up, proposes, or draws any lottery is guilty of a misdemeanor.

History: En. Sec. 581, Pen. C. 1895; re-en. Sec. 8407, Rev. C. 1907. Cal. Pen. C. Sec. 320.

11151. Punishment for selling lottery tickets. Every person who sells, gives, or in any manner whatever furnishes or transfers to or for any other person, any ticket, chance, share or interest or any paper, certificate or instrument purporting or understood to be or to represent any ticket, chance, share or interest in, or depending upon the event of any lottery is guilty of a misdemeanor.

History: En. Sec. 582, Pen. C. 1895; re-en. Sec. 8408, Rev. C. 1907. Cal. Pen. C. Sec. 321.

11152. Aiding lotteries. Every person who aids or assists, either by printing, writing, advertising, publishing or otherwise, in setting up, managing or drawing any lottery or in selling or disposing of any ticket, chance, or share therein, is guilty of a misdemeanor.

History: En. Sec. 583, Pen. C. 1895; re-en. Sec. 8409, Rev. C. 1907. Cal. Pen. C. Sec. 322.

11153. Lottery offices—Advertising lottery offices. Every person who opens, sets up or keeps, by himself, or by any other person, any office or any other place for the sale of, or for registering the number of any ticket in any lottery within or without this state, or who by printing, writing, or otherwise, advertises or publishes the setting up, opening, or using of, any such office is guilty of a misdemeanor.

History: En. Sec. 584, Pen. C. 1895; re-en. Sec. 8410, Rev. C. 1907. Cal. Pen. C. Sec. 323.

11154. Insuring lottery tickets—Publishing offers to insure. Every person who insures or receives any consideration for insuring for or against the drawing of any ticket in any lottery whatever, whether drawn or to be drawn within this state or not, or who receives any valuable consideration upon any agreement to repay any sum or deliver the same, or any other property if any lottery ticket or number of any ticket in any lottery shall prove fortunate or unfortunate, or shall be drawn or not be drawn at any particular time, or in any particular order, or who promises or agrees to pay any sum of money, or to deliver any goods, things in action or property, or to forbear to do anything for the benefit of any person, with or without consideration, upon any event or contingency, dependent on the drawing of any ticket in any lottery, or who publishes any notice or proposal of any of the purposes aforesaid, is guilty of a misdemeanor.

History: En. Sec. 585, Pen. C. 1895; re-en. Sec. 8411, Rev. C. 1907. Cal. Pen. C. Sec. 324.

11155. Property offered for disposal in lottery forfeited. All moneys or property offered for sale or distribution in violation of any of the provisions of this chapter, are forfeited to the state, and may be recovered by information filed, or by an action brought by the attorney-general, or by any county attorney in the name of the state. Upon the filing of the information or complaint, the clerk of the court, or, if the suit is in a justice's court, the justice, must issue an attachment against the property mentioned in the complaint or information, which attachment has the same force and effect against such property, and is issued in the same manner as attachments are issued from the district courts in civil cases.

History: En. Sec. 586, Pen. C. 1895; re-en. Sec. 8412, Rev. C. 1907. Cal. Pen. C. Sec. 325.

11156. Letting building for lottery purposes. Every person who lets or permits to be used, any building or vessel, or any portion thereof, knowing that it is to be used for setting up, managing, or drawing, any lottery, or for the purpose of selling or disposing of lottery tickets, is guilty of a misdemeanor.

History: En. Sec. 587, Pen. C. 1895; re-en. Sec. 8413, Rev. C. 1907. Cal. Pen. C. Sec. 326.

11157. Lotteries out of this state. The provisions of this chapter are applicable to lotteries drawn or to be drawn out of this state, whether authorized or not by the laws of the state or country where they are drawn or to be drawn, in the same manner as to lotteries drawn or to be drawn within this state.

History: En. Sec. 588, Pen. C. 1895; re-en. Sec. 8414, Rev. C. 1907.

11158. Punishment. Every person convicted of any of the offenses mentioned in this chapter, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding two thousand dollars, or both.

History: En. Sec. 589, Pen. C. 1895; re-en. Sec. 8415, Rev. C. 1907.

CHAPTER 33.

GAMBLING.

- Section 11159.** Gambling Games Prohibited—Penalty.
 11160. Possession of Gambling Implements Prohibited.
 11161. Obtaining Money by Means of Gambling Games or Tricks Deemed to Be Larceny.
 11162. Brace and Bunco Games Prohibited.
 11163. Soliciting or Persuading Persons to Visit Gambling Resorts Prohibited.
 11164. Penalty for Second Offense.
 11165. Maintaining Gambling Apparatus a Nuisance.
 11166. Duty of Public Officer to Seize Gambling Implements and Apparatus.
 11167. Duty of Magistrate to Retain Gambling Implement or Apparatus for Trial.
 11168. Authority to Break and Enter Buildings Where Games are Probably Being Played.
 11169. Duty of Public Officer to Make Complaint.
 11170. Duty of Mayors to Enforce Law.
 11171. Officers Neglecting Duty Subject to Forfeiture of Office.
 11172. Receiving Money to Protect Offenders Prohibited.
 11173. Losses at Gambling May Be Recovered in Civil Action.
 11174. Action May Be Brought by Any Person for the Use of Loser.
 11175. Pleadings in Actions to Recover Moneys Lost.
 11176. Compelling Testimony in Such Actions.
 11177. Leaser of Buildings Used for Gambling Purposes Treated as Principal.
 11178. Immunity of Witnesses.
 11179. Ordinances in Conflict With This Act Void.
 11180. Racing Bets Unlawful.
 11181. Who Deemed a Principal.
 11182. Violation of Act a Misdemeanor.
 11183. Act When Effective.

11159. Gambling games prohibited—Penalty. Every person who deals, plays or carries on, opens or causes to be opened, or who conducts or causes to be conducted, operates or runs, either as principal, agent, owner or employee, whether for hire or not, any game of monte, dondo, fan-tan, tan, studhorse poker, craps, seven-and-a-half, twenty-one, faro, roulette, hokey-pokey, pangenì or pangene, draw-poker or the game commonly called round-the-table poker, or any banking or percentage game, or any game commonly known as a sure-thing game, or any game of chance played with cards, dice or any device whatsoever, or who runs or conducts or causes to be run or conducted, or keeps any slot-machine, punch-board or other similar machine or device or permits the same to be run or conducted for money, checks, credits or any representative of value, or for

any property or thing whatsoever, or any person or persons who conduct any bucket-shop where stocks or securities of any kind are sold on margins and any person owning or in charge of any saloon, beer-hall, bar-room, cigar store, drug store, or other place of business, or any place where drinks are sold or served, who permits any of the games mentioned in this section to be played in or about such saloon, beer-hall, bar-room, cigar store or other place of business, or permits any slot-machine, punch-board or similar device to be kept therein, and every person who plays or bets at or against any of said prohibited games or devices is guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, and may be imprisoned for not less than three months nor more than one year, or by both such fine and imprisonment.

History: En. Sec. 600, Pen. C. 1895; amd. Sec. 1, p. 80, L. 1897; amd. Secs. 1, 2 and 3, pp. 166, 167, L. 1901; amd. Sec. 1, Ch. 115, L. 1907; re-en. Sec. 8416, Rev. C. 1907; amd. Sec. 1, Ch. 86, L. 1917. Cal. Pen. C. Sec. 330.

An information charging a violation of the anti-gambling law in the words of this section was sufficient, and it was not necessary to describe the game in detail, or set out the means by which it was carried on. *State v. Ross*, 38 Mont. 319, 325, 99 Pac. 1056.

An information charging defendant with permitting a game of chance to be played upon his premises is not defective because of its failure to set forth the names of the persons permitted to play. *State v. Radmilovich*, 40 Mont. 93, 98, 105 Pac. 91.

The particular name of a game of chance played with cards for money, checks, etc., need not be stated in the information. *State v. Duncan*, 40 Mont. 531, 535, 107 Pac. 510.

The allegation that the defendant did

carry on, conduct, and cause to be conducted the game described is sufficient to charge an offense without regard to the expression "as owner and proprietor thereof," which may be regarded as surplusage. *State v. Tudor*, 47 Mont. 185, 131 Pac. 632.

This section makes no distinction as to the amount of the stakes involved; hence it is immaterial that the stakes were merely treats or cigars. *State v. Dumphy*, 57 Mont. 229, 187 Pac. 897.

Cited or applied as section 600, Penal Code, before amendment, in *State v. Mitchell*, 17 Mont. 67, 71, 42 Pac. 100; as Laws of 1901, p. 166, before amendment, in *State v. Towner*, 26 Mont. 339, 344, 67 Pac. 1104; as section 8416, Revised Codes, before amendment, in *State ex rel. Little v. District Court*, 49 Mont. 158, 161, 141 Pac. 151.

Cited or applied as section 1, Laws of 1901, before amendment, in *State v. Woodman*, 26 Mont. 348, 352, 67 Pac. 1118.

For text treatment of "Gaming," see Cal. Jur. and 12 R. C. L. 704.

11160. Possession of gambling implements prohibited. Any person who has in his possession, or under his control, or who permits to be placed, maintained or kept in any room, space, enclosure or building, owned, leased or occupied by him, or under his management or control, any faro box, faro lay-out, roulette-wheel, roulette-table, crap-table, slot-machine, or any machine or apparatus of the kind mentioned in the preceding section of this act, is punishable by a fine of not less than one hundred nor more than one thousand dollars, and may be imprisoned for not less than three months nor more than one year in the discretion of the court; provided, however, that this section shall not apply to a public officer, or to a person coming into possession thereof in or by reason of the performance of an official duty and holding the same to be disposed of according to law.

History: En. Sec. 8417, Rev. C. 1907.

Note.—Sections 11160 to 11179 were enacted as section 2 to 21, chapter 115, Laws of 1907, appearing as sections 8417 to 8436, Revised Codes 1907.

Cited or applied as section 8417, Revised Codes, in *State v. Williams*, 52 Mont. 369, 157 Pac. 957.

11161. Obtaining money by means of gambling games or tricks deemed to be larceny. Every person who, by means of any game, device, sleight-of-hand trick, or other means whatever, by the use of cards or other implements other than those mentioned in the following section hereof, or while betting on sides, or hands, of any such game or play, fraudulently obtains from another person money or property of any description, shall be deemed guilty of larceny of property of like value.

History: Sec. 8418, Rev. C. 1907. See also note to Sec. 11160. Cal. Pen. C. Sec. 332.

11162. Brace and bunco games prohibited. Every person who uses or deals with or wins any money or property by the use of brace-faro, or of any two-card faro-box, or any brace roulette-wheel or roulette-table, or any brace apparatus, or with loaded dice or with marked cards, or by any game commonly known as a confidence game or bunco, is punishable by imprisonment in the state prison not exceeding five years.

Related section: 11411.

History: Sec. 8419, Rev. C. 1907. See also note to Sec. 11160.

11163. Soliciting or persuading persons to visit gambling resorts prohibited. Any person who persuades or solicits another to visit any room, tent, apartment or place used, or represented by the person soliciting or persuading to be a place used for the purpose of running any of the games prohibited by this act, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or imprisonment not less than three months nor more than one year, or by both such fine and imprisonment in the county jail.

History: Sec. 8420, Rev. C. 1907. See also note to Sec. 11160. Cal. Pen. C. Sec. 318.

11164. Penalty for second offense. Every person who, having been convicted of a violation of any of the provisions of this act, which is punishable by fine, commits another such violation after such conviction, is punishable by a fine of not less than five hundred nor more than one thousand dollars, and by imprisonment in the county jail for not less than six months nor more than one year.

History: Sec. 8421, Rev. C. 1907. See also note to Sec. 11160.

11165. Maintaining gambling apparatus a nuisance. Any article, machine or apparatus maintained or kept in violation of any of the provisions of this act is a public nuisance, but the punishment for the maintaining or keeping of the same shall be as provided in this act.

History: Sec. 8422, Rev. C. 1907. See also note to Sec. 11160.

11166. Duty of public officer to seize gambling implements and apparatus. It shall be the duty of every officer authorized to make arrests, to seize every machine, apparatus, or instrument answering to the description contained in this act, or which may be used for the carrying on or conducting of any game or games mentioned in this act, and to arrest the person actually or apparently in possession or control thereof, or of the premises in which the same may be found, if any such person be present at the time of the seizure and to bring the machine, apparatus, or instrument and the prisoner, if there be one, before a committing magistrate.

History: Sec. 8423, Rev. C. 1907. See also note to Sec. 11160.

11167. Duty of magistrate to retain gambling implement or apparatus for trial. The magistrate before whom any machine, apparatus, or instrument is brought pursuant to the preceding section must, if there be a prisoner and if he shall hold such prisoner, cause the machine, apparatus, or instrument to be delivered to the county attorney to be used as evidence on the trial of such prisoner. If there be no prisoner, or if the magistrate does not hold the prisoner, he must cause the immediate and public destruction of the machine, apparatus, or instrument in the presence of said magistrate. No person owning or claiming to own any such machine, apparatus, or instrument so destroyed, shall have any right of action against any person or against the state, county, or city for the value of such article, or for damages. It shall be the duty of the county attorney to produce such articles in court on the trial of the case. It shall be the duty of the trial court, after the disposition of the case, and whether the defendant be convicted, acquitted, or fails to appear for trial, to cause the immediate and public destruction of any such article by the sheriff or any other officer or person designated by the court.

History: Sec. 8424, Rev. C. 1907. See also note to Sec. 11160.

11168. Authority to break and enter buildings where games are probably being played. Every sheriff, constable and public officer having probable cause to believe that any room, tent, or apartment is being used as a room, tent, or apartment for the playing or conducting of any of the games mentioned in this act, shall have authority to break open any door, or opening into any such room, tent, or apartment, with or without a warrant of arrest, for the purpose of arresting the offenders against this act.

History: Sec. 8425, Rev. C. 1907. See also note to Sec. 11160.

11169. Duty of public officer to make complaint. Every county attorney, sheriff, constable, chief of police, marshal, or police officer must inform against and make complaint and diligently prosecute persons whom they know, or concerning whom they may be informed, or whom they may have reasonable cause to believe to be offenders against the provisions of this act. The neglect or refusal of any such officer to make complaint against or diligently prosecute persons he has reasonable cause to believe to be offenders against the provisions of this act shall be deemed sufficient cause for removal from office.

History: Sec. 8426, Rev. C. 1907. See also note to Sec. 11160.

Cited or applied as section 8426, Revised Codes, in State ex rel. Quintin v. Edwards, 38 Mont. 250, 265, 99 Pac. 940.

11170. Duty of mayors to enforce law. It shall be the duty of every mayor of every town or city in this state to cause this act to be diligently enforced and to cause the police officers of his city or town to arrest and to make complaint against any and all persons whom he or they know, or have reasonable cause to believe to be offenders against any of the provisions of this act.

History: Sec. 8427, Rev. C. 1907. See also note to Sec. 11160.

11171. Officers neglecting duty subject to forfeiture of office. Every county attorney, sheriff, mayor, constable, chief of police, marshal, or police officer who shall refuse or neglect to perform any of the duties imposed

upon him by any of the provisions of this act, shall be guilty of a misdemeanor and be punishable by a fine of not less than one hundred nor more than three thousand dollars, or imprisonment for not less than six months nor more than one year in the county jail. A conviction under this section shall, unless set aside, also work a forfeiture of the office of such officer and operate as a removal from office. But a prosecution under this section shall not bar or interfere with any proceeding or action for removal from office which may be brought under any other provision of law or statute, nor affect or limit the effect or operation of any other statute regarding removals or suspensions from office.

History: Sec. 8428, Rev. C. 1907. See also note to Sec. 11160.

Cited or applied as section 8428, Revised Codes, in *State ex rel. Quintin v. Edwards*, 38 Mont. 250, 265, 99 Pac. 940.

11172. Receiving money to protect offenders prohibited. Every state, county, city, or township officer, or other person, who shall ask for, receive, or collect any money or valuable consideration, either for his own or for the public use, or the use of any other person or persons, for and with the understanding that he will protect or exempt any person from arrest or conviction for any violation of the provisions of this act, or that he will abstain from arresting or prosecuting, or causing to be arrested or prosecuted, any person offending against any of the provisions of this act, or that he will permit any of the things prohibited by this act to be done or carried on, and every such state, county, city, or township officer who shall grant, issue, or deliver, or cause to be issued or delivered to any person or persons, any license, permit, or other privilege giving or pretending to give any authority or right to any person or persons to carry on, conduct, open, or cause to be conducted or opened or carried on, any game or games which are forbidden by any of the provisions of this act, is guilty of a felony.

History: Sec. 8429, Rev. C. 1907. See also note to Sec. 11160. Cal. Pen. C. Sec. 337.

11173. Losses at gambling may be recovered in civil action. If any person, by playing or betting at any of the games prohibited by this act, loses to another person any sum of money, or thing of value, and pays or delivers the same, or any part thereof, to any person connected with the operation or conducting of such game, either as owner, or dealer, or operator, the person who so loses and pays or delivers may, at any time within sixty days next after the said loss and payment or delivery, sue for and recover the money or thing of value so lost and paid or delivered, or any part thereof from any person having any interest, direct or contingent, in the game, as owner, backer, or otherwise, with costs of suit, by civil action before any court of competent jurisdiction, together with exemplary damages, which in no case shall be less than fifty nor more than five hundred dollars, and may join as defendants in said suit, all persons having any interest, direct or contingent, in such game as backers, owners, or otherwise.

History: Sec. 8430, Rev. C. 1907. See also note to Sec. 11160.

The anti-gambling law was not rendered invalid by the insertion of this section, creating a right of action in favor of one losing at any of the prohibited games, to

recover the amount lost, together with exemplary damages. The right thus given is in the nature of a penalty and constitutes a part of the penalty provided by the act. *State v. Ross*, 38 Mont. 319, 324, 99 Pac. 1056.

Right of owner to recover his money gambled away by another without authority, see note 2 A. L. R. 345.

Right to recover money which the plaintiff placed in the hands of an agent to be used for gambling purposes, see note in 3 A. L. R. 1365.

11174. Action may be brought by any person for the use of loser. If any person losing such money or thing of value does not, within sixty days, without collusion or deceit, sue and with effect prosecute for the money or thing of value so lost and paid or delivered, any person, or a guardian of any person, dependent in any degree for support upon or entitled to the earnings of such persons losing said money or thing of value, or any citizen for the use of the person so dependent, may, within one year, sue for and recover the same, with costs of suit and exemplary damages as aforesaid, against any and all persons having any interest, direct or contingent, in the said game as backers, owners, or otherwise, as aforesaid.

History: Sec. 8431, Rev. C. 1907. See also note to Sec. 11160.

11175. Pleadings in actions to recover moneys lost. In the prosecutions of such actions it shall be sufficient for the complaint to allege that the defendant is indebted to the plaintiff's use, the money or thing of value so lost and paid or delivered, whereby the plaintiff's action accrued to him, or to the person for whose use the suit is brought, without setting forth the special matter. In case suit is brought by a plaintiff for the use of another person, that fact and the name of the person for whose use the suit is brought shall be stated.

History: Sec. 8432, Rev. C. 1907. See also note to Sec. 11160.

11176. Compelling testimony in such actions. Every person liable in a civil action under this act may be compelled to answer, upon oath, interrogatories annexed to the complaint in such civil action for the purpose of discovery of his liability; and upon discovery and repayment of the money or other thing, the person discovering and repaying the same, with costs and such an amount of exemplary damages as may be agreed upon by the parties, or fixed by the court, shall be acquitted and discharged from any further or other forfeiture, punishment, penalty, or prosecution he or they may have incurred for so winning such money or thing, discovered and repaid.

History: Sec. 8433, Rev. C. 1907. See also note to Sec. 11160.

11177. Leaser of buildings used for gambling purposes treated as principal. Whenever premises are occupied for the doing of any of the things, or running any of the games prohibited by this act, the lease or agreement under which they are so occupied shall be absolutely void at the instance of the lessor, who may at any time obtain possession by civil action, or by action of forcible detainer; and if any person lease premises for any such purpose, or knowingly permits them to be used or occupied for such purpose or purposes, or knowing them to be so occupied or used, fails immediately to prosecute, in good faith an action or proceeding for the recovery of the premises, such lessor shall be considered in all cases, civil and criminal, as a principal in running the games or doing the things run or done in such building, in violation of this act, and shall be dealt with and punished accordingly.

History: Sec. 8434, Rev. C. 1907. See also note to Sec. 11160.

11178. Immunity of witnesses. No person shall be excused from attending or testifying or producing any books, papers, documents, or any thing or things, before any court or magistrate upon any investigation, proceeding or trial for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to convict him of a crime, or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence of, documentary or otherwise; and no testimony or evidence so given or produced shall be received against him in any civil or criminal proceeding, action, or investigation.

History: Sec. 8435, Rev. C. 1907. See also note to Sec. 11160.

11179. Ordinances in conflict with this act void. Upon the passage of this act, all ordinances and parts of ordinances of cities and towns in this state regarding gambling and gambling-houses shall be inoperative and void, and thereafter no ordinance regarding gambling or gambling-houses shall be passed by any city or town.

History: Sec. 8436, Rev. C. 1907. See also note to Sec. 11160.

11180. Racing bets unlawful. It shall be unlawful to make or report or record or register any bet or wager upon the result of any contest of speed or skill or endurance of animal or beast, whether such contest is held within or without the state of Montana.

History: En. Sec. 1, Ch. 20, L. 1909; amd. Sec. 1, Ch. 92, L. 1909; amd. Sec. 1, Ch. 55, L. 1915.

Evidence held insufficient to justify conviction of a telegraph company for transmitting information for the purpose of having a bet or wager made upon a horserace in violation of this act. *State v. Postal Telegraph Cable Co.*, 53 Mont. 104, 107, 161 Pac. 953.

Since the offense denounced by this act consists of transmitting information concerning a horserace for the purpose of having bets or wagers made, an instruction would be given in a prosecution for

such an offense that it is not wrongful to transmit such information if bets or wagers are not to be made. *State v. Postal Telegraph Cable Co.*, 53 Mont. 104, 108, 161 Pac. 953.

Cited or applied as section 1, chapter 92, Laws of 1909, before amendment, in *State v. Rose*, 40 Mont. 66, 70, 105 Pac. 82; *State v. Sylvester*, 40 Mont. 79, 105 Pac. 86.

Betting on horseraces as gaming or gambling, see notes in 6 Ann. Cas. 693; 11 Ann. Cas. 280; 7 L. R. A. (N. S.) 899; 33 L. R. A. (N. S.) 828.

11181. Who deemed a principal. Any person who aids or abets in the commission of any of the acts herein declared to be unlawful, either by transmitting or communicating or transferring money or other thing of value, or information for the purpose of having bets or wagers made or reported or recorded or registered, shall be deemed a principal in the commission of such offense.

History: En. Sec. 3, Ch. 20, L. 1909; re-en. Sec. 3, Ch. 92, L. 1909; re-en. Sec. 2, Ch. 55, L. 1915.

Cited or applied as section 3, chapter 92, Laws of 1909, before amendment, in *State v. Rose*, 40 Mont. 66, 70, 105 Pac. 82.

11182. Violation of act a misdemeanor. Every person or persons violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine or not less than one hundred dollars or more than one thousand dollars, or by imprisonment in

the county jail for not more than one year, or by both such fine and imprisonment.

History: En. Sec. 4, Ch. 20, L. 1909; re-en. Sec. 4, Ch. 92, L. 1909; re-en. Sec. 3, Ch. 55, L. 1915.

11183. Act, when effective. This act is hereby declared to be necessary for the immediate preservation of the public peace, health, and safety, and shall take effect from and after its passage and approval by the governor.

History: En. Sec. 5, Ch. 55, L. 1915.

CHAPTER 34.

PAWNBROKERS—PROHIBITIONS GOVERNING.

Section 11184. Pawnbroker—Doing Business Without License.

11185. Failure to Keep Register.

11186. Rate of Interest.

11187. Failure to Produce Register for Inspection.

11184. Pawnbroker—Doing business without license. Every person who carries on the business of a pawnbroker by receiving goods in pledge for loans at any rate of interest above the rate of ten per cent. per annum, except by authority of a license, is guilty of a misdemeanor.

History: En. Sec. 620, Pen. C. 1895; re-en. Sec. 620, Ch. 54, L. 1903; re-en. Sec. 8437, Rev. C. 1907. Cal. Pen. C. Sec. 338.

11185. Failure to keep register. Every person who carries on the business of a pawnbroker, dealer in second-hand goods, or junk dealer who fails at the time of the transaction to enter in a register kept by him for that purpose, in the English language, the date, duration, amount, and rate of interest of every loan made by him, or an accurate description of the property pledged or sold to him or by him, or the name and residence of the pledger or seller or purchaser, or to deliver to the pledger or seller or purchaser a written copy of such entry, or to keep an account in writing of all sales or purchases made by him, and every pawnbroker, dealer in second-hand goods, or junk dealer who receives goods in pledge or by gift, or purchases the same from any person under the age of twenty-one years, or from anybody acting as agent for said person, shall be deemed guilty of a misdemeanor, and a conviction thereof shall also work a forfeiture of his license.

History: En. Sec. 621, Pen. C. 1895; re-en. Sec. 621, Ch. 54, L. 1903; re-en. Sec. 8438, Rev. C. 1907. Cal. Pen. C. Sec. 339.

11186. Rate of interest. Every pawnbroker who charges or receives interest at the rate of more than three per cent. per month, or who, by charging commission, discount, storage, or other charge, or by compounding, increases or attempts to increase such interest, is guilty of a misdemeanor.

History: En. Sec. 622, Pen. C. 1895; re-en. Sec. 622, Ch. 54, L. 1903; re-en. Sec. 8439, Rev. C. 1907. Cal. Pen. C. Sec. 340.

11187. Failure to produce register for inspection. Every pawnbroker, dealer in second-hand goods, or junk dealer who fails, refuses, or neglects to produce for inspection his register, or to exhibit the articles received

by him in pledge, or sold to him, or his account of sales and purchases, to any officer holding a warrant authorizing him to search for personal property, or the order of a committing magistrate directing such officer to inspect such register or examine such articles or accounts of sales or purchases, is guilty of a misdemeanor.

History: En. Sec. 623, Pen. C. 1895; amd. Sec. 623, Ch. 54, L. 1903; re-en. Sec. 8440, Rev. C. 1907. Cal. Pen. C. Sec. 343.

CHAPTER 35.

POOLHALLS, BILLIARD-HALLS, AND BOWLING-ALLEYS—PROHIBITIONS GOVERNING.

Section 11188. Conducting Certain Pool Games a Misdemeanor.

11189. Same—Playing Games—Punishment for.

11190. Closing Hour for Poolhalls, Billiard-halls, and Bowling-alleys.

11191. Penalty for Permitting Minors in Pool or Billiard-hall.

11192. Penalty for Violation of Act.

11188. Conducting certain pool games a misdemeanor. Any owner, proprietor, manager, or employee who permits, or any person who carries on, or conducts, or causes to be conducted or runs, as principal, agent, or employee, any game of pea pool, pay pool, Kelly pool, or any other game of chance, science, or skill, played upon any pooltable or upon any billiard-table, for money, checks, credits, or any representative of value, shall be deemed to be guilty of a misdemeanor and punished as provided in this act.

History: En. Sec. 1, Ch. 29, L. 1917.

11189. Same—Playing games—Punishment for. Any person who shall participate as a player in the games prohibited by this act shall be deemed guilty of a violation thereof and punished as provided in this act.

History: En. Sec. 2, Ch. 29, L. 1917.

11190. Closing hour for poolhalls, billiard-halls, and bowling-alleys. All poolhalls, billiard-halls, bowling-alleys, and other places of business where pool or billiards is played, shall be closed each night in the year at an hour not later than twelve o'clock, midnight, and shall be kept closed until seven o'clock the following morning; provided, however, that the provisions of this act shall not extend the hours of keeping open such resorts and places of business which by regulation of law or ordinance are required to be closed at an earlier hour than twelve o'clock, midnight.

History: En. Sec. 3, Ch. 29, L. 1917.

11191. Penalty for permitting minors in pool or billiard-hall. Every owner, proprietor, manager, or employee of a pool or billiard-hall who permits a minor under the age of eighteen years to play, resort, or stop therein, is guilty of a misdemeanor.

History: En. Sec. 4, Ch. 29, L. 1917; amd. Sec. 1, Ch. 115, L. 1921.

11192. Penalty for violation of act. Any person who shall violate any of the provisions of this act shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment of not more than six months, or by both such fine and imprisonment.

History: En. Sec. 5, Ch. 29, L. 1917.

CHAPTER 36.

MISCELLANEOUS INJURIES TO AND OFFENSES AGAINST PERSONS.

- Section 11193. Acts of Intoxicated Physicians.
 11194. Wilfully Poisoning Food, Medicine, or Water.
 11195. Mismanagement of Steam-boilers.
 11196. Operating Steam-boiler Without License a Misdemeanor.
 11197. Unsafe Steam-boilers.
 11198. False Certificate of Boiler Inspector.
 11199. Forging and Counterfeiting of Trademarks a Misdemeanor.
 11200. Selling Goods Which Bear Counterfeit Trademarks.
 11201. Definition of the Phrase "Counterfeit Trademarks," etc.
 11202. "Trademark" Defined.
 11203. Refilling Casks, etc., Bearing Trademark.
 11204. Counterfeiting Certain Trademarks.
 11205. Penalty for Unlawfully Using Trademark.
 11206. Record of Certain Trademarks.
 11207. Suits to Protect Certain Trademarks.
 11208. Penalties.
 11209. Same.
 11210. Defacing Marks Upon Logs, Lumber, or Wood.
 11211. Altering Brands.
 11212. Contracting or Solemnizing Incestuous or Forbidden Marriages.
 11213. Making False Return or Record of Marriage.
 11214. Cruel Treatment of Lunatics, etc.
 11215. Refusing to Issue or Obey Writ of Habeas Corpus.
 11216. Reconfining Persons Discharged Upon Writ of Habeas Corpus.
 11217. Concealing Persons Entitled to Benefit of Habeas Corpus.
 11218. Innkeepers and Carriers Refusing to Receive Guests.
 11219. Protection of Discharged Employees.
 11220. False Representation to Procure Workmen.
 11221. Same—Penalty.
 11222. Same—Action for Damages.
 11223. Prohibiting Compulsory Company Boarding-houses.
 11224. Same—Penalty.
 11225. Trespassing Stock.
 11226. Penalty for Trespassing Stock.
 11227. Fines Belong to School Fund.
 11228. When Act Applicable.

11193. Acts of intoxicated physicians. Every physician who, in a state of intoxication, does any act as such physician to another person by which the life of such other person is endangered, is guilty of a misdemeanor.

History: En. Sec. 630, Pen. C. 1895; re-en. Sec. 8441, Rev. C. 1907. Cal. Pen. C. Sec. 346.

11194. Wilfully poisoning food, medicine, or water. Every person who wilfully mingles any poison with any food, drink, or medicine, with intent that the same shall be taken by any human being to his injury, and every person who wilfully poisons any well, spring, or reservoir of water, is punishable by imprisonment in the state prison for a term not less than one nor more than ten years.

History: En. Sec. 631, Pen. C. 1895; re-en. Sec. 8442, Rev. C. 1907. Cal. Pen. C. Sec. 347.

11195. Mismanagement of steam-boilers. Every engineer or other person having charge of any steam-boiler, steam-engine, or other apparatus for generating or employing steam, used in any manufactory, steamboat, railway, mining, milling, or other mechanical works, who wilfully or from ignorance, or gross neglect, creates, or allows to be created, such an undue

quantity of steam as to burst or break the boiler, or engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a felony.

History: En. Sec. 632, Pen. C. 1895; re-en. Sec. 8443, Rev. C. 1907. Cal. Pen. C. Sec. 349.

11196. Operating steam-boiler without license a misdemeanor. Every person who operates any steam-boiler or steam-engine without first obtaining a license from the boiler inspector or assistant boiler inspector, as required by law, and every owner, employer, or manager of any steam-engine or boiler who knowingly permits any unlicensed engineer to operate any steam-boilers or steam-engines where a license is required, or who operates or causes to be operated any steam-engine or boiler without having the same inspected and the inspector's certificate issued thereon as required by law, or who violates any of the provisions of sections 2712 to 2729, inclusive, of the Political Code, shall be deemed guilty of a misdemeanor and, upon conviction thereof, where no other punishment is prescribed, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail of not exceeding six months, or by both such fine and imprisonment.

History: En. Sec. 633, Pen. C. 1895; re-en. Sec. 8444, Rev. C. 1907; amd. Sec. 17, Ch. 30, L. 1913.

11197. Unsafe steam-boilers. Every owner, renter, or user of a steam-boiler, who uses a boiler or steam-engine which has become unsafe from any cause, or has been notified by the boiler inspector or his assistant that such boiler or steam-engine is unsafe from any defect, or that repairs are necessary, and after such notice uses the same, is punishable by imprisonment in the county jail not exceeding three months, or by fine not exceeding two hundred and fifty dollars, or both.

History: En. Sec. 634, Pen. C. 1895; re-en. Sec. 8445, Rev. C. 1907.

11198. False certificate of boiler inspector. If the state boiler inspector, or assistant inspector, wilfully and falsely certifies regarding any steam-boiler, steam-engine, or its attachments, or grants a license to any person to act as engineer, contrary to law, he is punishable by imprisonment not exceeding one year in the county jail, or by a fine not exceeding five hundred dollars, or both.

History: En. Sec. 635, Pen. C. 1895; re-en. Sec. 8446, Rev. C. 1907.

11199. Forging and counterfeiting of trademarks a misdemeanor. Every person, association, or corporation who knowingly or wilfully forges or counterfeits, or procures to be forged or counterfeited, any trademark or name used and recorded by any person in connection with his goods, or affixed thereto to distinguish them from the goods of any other person; or any person, association, or corporation who shall make use of any trademark or name, or anything similar thereto, which has been recorded in the office of the secretary of state for any other person, association, or corporation—with intent to palm off on the public any goods to which said forged, counterfeit, or similar trademark or name is affixed, as the goods of such person whose trademark or name is recorded—is guilty of a misdemeanor and subject to the penalty therefor provided—it being

the intent of this act that any person owning or using a recorded trademark or name shall be protected in the exclusive use thereof.

History: En. Sec. 636, Pen. C. 1895; re-en. Sec. 8447, Rev. C. 1907; amd. Sec. 1, Ch. 94, L. 1913. Cal. Pen. C. Sec. 350.

11200. Selling goods which bear counterfeit trademarks. Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark has been affixed, after such trademark has been recorded in the office of the secretary of state, intending to represent such goods as the genuine goods of another, knowing the same to be counterfeited, is guilty of a misdemeanor.

History: En. Sec. 637, Pen. C. 1895; re-en. Sec. 8448, Rev. C. 1907. Cal. Pen. C. Sec. 351.

11201. Definition of the phrase "counterfeit trademarks," etc. The phrases "forged trademark" and "counterfeit trademark," or their equivalents, as used in this chapter, include every alteration or imitation of any trademark so resembling the original as to be likely to deceive.

History: En. Sec. 638, Pen. C. 1895; re-en. Sec. 8449, Rev. C. 1907. Cal. Pen. C. Sec. 352.

11202. "Trademark" defined. The phrase "trademark," as used in the three preceding sections, includes every description of word, letter, device, emblem, stamp, imprint, brand, printed ticket, label, wrapper, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman to denote any goods to be goods imported, manufactured, produced, compounded, or sold by him, other than any name, word, or expression generally denoting any goods to be of some particular class or description.

History: En. Sec. 639, Pen. C. 1895; re-en. Sec. 8450, Rev. C. 1907. Cal. Pen. C. Sec. 353.

11203. Refilling casks, etc., bearing trademark. Every person who has or uses any cask, bottle, siphon, vessel, case, box-cover, label, or other thing bearing or having in any way connected with it the duly filed trademark or name of another, for the purpose of disposing, with intent to deceive or defraud, of any article other than that which such cask, vessel, bottle, case, cover, label, or other thing originally contained, or was connected with, by the owner of such trademark or name, is guilty of a misdemeanor.

History: En. Sec. 640, Pen. C. 1895; re-en. Sec. 8451, Rev. C. 1907. Cal. Pen. C. Sec. 354.

11204. Counterfeiting certain trademarks. Whenever any person, association, or union of workmen have adopted or shall hereafter adopt, for their protection any label, trademark, or form of advertisement announcing that goods to which such label, trademark, or form of advertisement shall be attached were manufactured by such person or by a member or members of such association or union, it shall be unlawful for any person or corporation to counterfeit or imitate such label, trademark, or form of advertisement. Every person violating this section shall, upon conviction, be guilty of a misdemeanor.

History: En. Sec. 641, Pen. C. 1895; re-en. Sec. 8452, Rev. C. 1907.

11205. Penalty for unlawfully using trademark. Every person who shall use any counterfeit or imitate any label, trademark, or form of advertisement of any such person, union, or association, knowing the same to be counterfeit or imitation, shall be guilty of a misdemeanor.

History: En. Sec. 642, Pen. C. 1895; re-en. Sec. 8453, Rev. C. 1907.

11206. Record of certain trademarks. Every such person, association, or union that heretofore adopted, or shall hereafter adopt, a label, trademark, or form of advertisement as aforesaid, may file the same for record in the office of the secretary of state, by leaving two copies, counterparts or facsimilies thereof, with the secretary of state; said secretary shall deliver to such person, association, or union filing the same a duly attested certificate of the record of the same, for which he shall receive a fee of one dollar. Such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trademark, or form of advertisement, and of the right of said person, association, or union to adopt the same. No label shall be recorded that probably would be mistaken for a label already of record.

History: En. Sec. 643, Pen. C. 1895; re-en. Sec. 8454, Rev. C. 1907.

11207. Suits to protect certain trademarks. Every such person, association, or union adopting a label, trademark, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display, or sale of any such counterfeit or imitation, and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display, or sale, and shall award the complainant in such suit such damages resulting from such wrongful manufacture, use, display, or sale as may by said court be deemed just and reasonable, and shall require the defendants to pay such person, association, or union the profits derived from such wrongful manufacture, use, display, or sale; and said court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to any officer of the court or to complainant to be destroyed.

History: En. Sec. 644, Pen. C. 1895; re-en. Sec. 8455, Rev. C. 1907.

11208. Penalties. Every person who shall use or display the genuine label, trademark, or form of advertisement of any such person, association, or union in any manner not authorized by such person, union, or association, shall be deemed guilty of a misdemeanor. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union.

History: En. Sec. 645, Pen. C. 1895; re-en. Sec. 8456, Rev. C. 1907.

11209. Same. Any person or persons who shall in any way use the name or seal of any person, association, or union, or officer thereof, in and about the name of goods or otherwise, not being authorized to use the same, shall be guilty of a misdemeanor.

History: En. Sec. 646, Pen. C. 1895; re-en. Sec. 8457, Rev. C. 1907.

11210. Defacing marks upon logs, lumber, or wood. Every person who cuts out, alters, or defaces any mark made upon any log, lumber, or wood,

or puts a false mark thereon, with intent to prevent the owner from discovering its identity, is guilty of a misdemeanor.

History: En. Sec. 647, Pen. C. 1895; re-en. Sec. 8458, Rev. C. 1907. Cal. Pen. C. Sec. 356.

11211. Altering brands. Every person who marks or brands, alters or defaces the mark or brand, of any horse, mare, colt, jack, jennet, mule, bull, ox, steer, cow, calf, sheep, goat, hog, shoat, or pig, belonging to another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, is punishable by fine not to exceed five hundred dollars, or imprisonment in the state prison not to exceed five years, or both.

History: En. Sec. 67, p. 190, Bannack Stat.; re-en. Sec. 78, p. 284, Cod. Stat. 1871; re-en. Sec. 78, 4th Div. Rev. Stat. 1879; re-en. Sec. 86, 4th Div. Comp. Stat. 1887; amd. Sec. 648, Pen. C. 1895; re-en. Sec. 8459, Rev. C. 1907. Cal. Pen. C. Sec. 357.

11212. Contracting or solemnizing incestuous or forbidden marriages. Every person authorized to solemnize marriage, who wilfully and knowingly solemnizes any incestuous or other marriage forbidden by law, is punishable by a fine not less than one hundred nor more than one thousand dollars, or imprisonment in the county jail not less than one year nor more than two years, or both.

History: En. Sec. 649, Pen. C. 1895; re-en. Sec. 8460, Rev. C. 1907. Cal. Pen. C. Sec. 359.

11213. Making false return or record of marriage. Every person authorized to solemnize any marriage, who wilfully makes a false return of any marriage or pretended marriage, to the county clerk, and every person who wilfully makes a false record of any marriage return, is punishable as provided in the preceding section.

History: En. Sec. 650, Pen. C. 1895; re-en. Sec. 8461, Rev. C. 1907. Cal. Pen. C. Sec. 360.

11214. Cruel treatment of lunatics, etc. Every person guilty of any harsh, cruel, or unkind treatment or any neglect of duty towards any idiot, lunatic, or insane person, is guilty of a misdemeanor.

History: En. Sec. 651, Pen. C. 1895; re-en. Sec. 8462, Rev. C. 1907. Cal. Pen. C. Sec. 361.

11215. Refusing to issue or obey writ of habeas corpus. Every officer or person to whom a writ of habeas corpus may be directed, who, after service thereof, neglects or refuses to obey the command thereof, is guilty of a misdemeanor.

History: En. Sec. 652, Pen. C. 1895; re-en. Sec. 8463, Rev. C. 1907. Cal. Pen. C. Sec. 362.

11216. Reconfining persons discharged upon writ of habeas corpus. Every person who, either solely or as a member of court, knowingly and unlawfully recommits, imprisons, or restrains of his liberty, for the same cause, any person who has been discharged upon a writ of habeas corpus, is guilty of a misdemeanor.

History: En. Sec. 653, Pen. C. 1895; re-en. Sec. 8464, Rev. C. 1907. Cal. Pen. C. Sec. 363.

11217. Concealing persons entitled to benefit of habeas corpus. Every person having in his custody, or under his restraint or power, any person for whose relief a writ of habeas corpus has been issued, who, with the intent to elude the service of such writ or to avoid the effect thereof, transfers such person to the custody of another, or places him under the power or control of another, or conceals or changes the place of his confinement or restraint, or removes him without the jurisdiction of the court or judge issuing the writ, is guilty of a misdemeanor.

Related section: 12348.

re-en. Sec. 8465, Rev. C. 1907. Cal. Pen.

History: En. Sec. 654, Pen. C. 1895; C. Sec. 364.

11218. Innkeepers and carriers refusing to receive guests. Every person, and every agent or officer of any corporation, carrying on business as an innkeeper, or as a common carrier of passengers, who refuses, without just cause or excuse, to receive and entertain any guest, or to receive or entertain any passenger, is guilty of a misdemeanor.

History: En. Sec. 655, Pen. C. 1895; re-en. Sec. 8466, Rev. C. 1907. Cal. Pen. C. Sec. 365.

11219. Protection of discharged employees. Every person who violates any of the provisions of sections 3092 to 3094, inclusive, of the Political Code, relating to the protection of discharged employees, and the prevention of blacklisting, is guilty of a misdemeanor.

History: En. Sec. 656, Pen. C. 1895; re-en. Sec. 8467, Rev. C. 1907.

11220. False representation to procure workmen. It shall be unlawful for any person or persons, society, company, association, corporation, or organization of any kind doing business in this state to induce, influence, persuade, or engage workmen to change from one place to another in this state, through or by means of deception, misrepresentation, and false advertising concerning the kind or character of the work, or the sanitary or other conditions of employment, or as to the existence of a strike or other trouble pending between the employer and the employees, at the time of, or immediately prior to, such engagement. Failure to state in any advertisement, proposal, or contract for the employment of workmen that there is a strike, lockout, or other labor trouble at the place of the proposed employment, when in fact such strike, lockout, or other trouble then actually exists at such place, shall be deemed a false advertisement and misrepresentation for the purpose of this act.

History: En. Sec. 1, Ch. 80, L. 1903; re-en. Sec. 8469, Rev. C. 1907.

11221. Same—Penalty. Every person, company, corporation, society, association, or organization of any kind doing business in this state, violating any of the provisions of this act, is punishable by a fine of not less than one hundred dollars nor more than two thousand dollars.

History: En. Sec. 2, Ch. 80, L. 1903; re-en. Sec. 8470, Rev. C. 1907.

11222. Same—Action for damages. Any workman of this state or any workman of any state who has been or shall be influenced, induced, or persuaded to engage with any person mentioned in section 11220 of this code, through or by means of any of the things prohibited by this act,

shall have a right of action for recovery of all damages that he has sustained in consequence of the deception, misrepresentation, and false advertising used to induce him to change his place of employment, against any person, corporation, company, or association directly or indirectly procuring such change, and in addition thereto, he shall recover reasonable attorney's fees to be fixed by the court and taxed as costs in any judgment recovered.

History: En. Sec. 3, Ch. 80, L. 1903; re-en. Sec. 8471, Rev. C. 1907.

11223. Prohibiting compulsory company boarding-houses. It shall be unlawful for any person, firm, company, or corporation now operating or who shall hereafter operate a boarding-house in connection with their general business, either directly or through others, to compel an employee to board in such boarding-house against his will.

History: En. Sec. 1, Ch. 102, L. 1903; re-en. Sec. 8472, Rev. C. 1907.

11224. Same—Penalty. Any person, firm, company, or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars.

History: En. Sec. 2, Ch. 102, L. 1903; re-en. Sec. 8473, Rev. C. 1907.

11225. Trespassing stock. It shall be unlawful for any person or persons to wilfully drive, or cause to be driven, any livestock held in herd on or over any field, ranch property, or valid claim in process of title under any of the land laws of the United States, or under lease from the state of Montana, whether the same be fenced or not; provided, that any lands so owned, or under process of title, or under lease, and not fenced, shall be clearly defined by suitable monuments or stakes, and plough-furrows, with printed or written notices indicating the lands so held.

History: En. Sec. 1, Ch. 103, L. 1903; re-en. Sec. 8474, Rev. C. 1907.

bility for trespasses in driving or herding one's animals upon the lands of another, whether such lands are protected by an enclosure or not. *Herrin v. Sieben*, 46 Mont. 226, 234, 127 Pac. 323.

The provisions of this and the following section do not annul the rule of civil lia-

11226. Penalty for trespassing stock. Any violation of the provisions of this act shall render the owner, lessee, employee, or other person in control, or herder of such stock so driven or herded, or permitted to enter upon the property referred to in the preceding section, subject to a fine of not less than twenty-five dollars nor more than five hundred dollars.

History: En. Sec. 2, Ch. 103, L. 1903; re-en. Sec. 8475, Rev. C. 1907; amd. Sec. 1, Ch. 41, L. 1921.

Cited or applied as section 8475, Revised Codes, in *Herrin v. Sieben*, 46 Mont. 226, 233, 127 Pac. 323.

11227. Fines belong to school fund. All fines collected under the provisions of this act shall be converted into the school funds of the county in which the action is brought.

History: En. Sec. 3, Ch. 103, L. 1903; re-en. Sec. 8476, Rev. C. 1907.

11228. When act applicable. This act is not intended, and shall not apply to stock on range not held in herd, or not in charge of a herder.

History: En. Sec. 4, Ch. 103, L. 1903; re-en. Sec. 8477, Rev. C. 1907.

CHAPTER 37.

MISCELLANEOUS CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

- Section 11229. Death from Explosions, etc.
 11230. Death from Collision on Railroads.
 11231. Public Nuisances Defined.
 11232. Unequal Damage.
 11233. Maintaining a Nuisance a Misdemeanor.
 11234. Establishing or Keeping a Pesthouse Within Cities, Towns, etc.
 11235. Putting Dead Animals in Streets, Rivers, etc.
 11236. Wilful Violation of Health Laws.
 11237. Neglecting to Perform Duties Under Health Laws.
 11238. Apothecary Omitting to Label Drugs, or Labeling Them Wrongfully, etc.
 11239. Selling Opium, etc.
 11240. Putting Extraneous Substances in Packages of Goods Usually Sold by Weight, With Intent to Increase Weight.
 11241. Adulterating Foods, Drugs, Liquors, etc.
 11242. Disposing of Tainted Food, etc.
 11243. Sale of Diseased Carcasses Without Inspection Forbidden.
 11244. Penalty for Violation of Act.
 11245. Hotels Serving Adulterated Foods Must Post Cards Announcing Such Facts.
 11246. Penalty for Violation of Act.
 11247. Possession of Adulterated Food Prima Facie Evidence of Guilt.
 11248. Oleomargarine.
 11249. Same.
 11250. Penalty.
 11251. Obstructing Attempts to Extinguish Fires.
 11252. Riding or Driving Faster Than a Walk on Public Bridges.
 11253. Intoxication of Engineers, Conductors, or Drivers of Locomotives or Cars.
 11254. Placing of Passenger Cars in Front of Freight Cars.
 11255. Violation of Duty by Employees of Railroad Companies.
 11256. Violation of Duty by Railroads.
 11257. Exposing Person Infected With Any Contagious Disease in a Public Place.
 11258. Fraudulent Practices to Affect the Market Price.
 11259. Selling Firearms and Ammunition to Indians.
 11260. Death from Mischievous Animals.
 11261. Aiding or Encouraging Suicide a Felony.
 11262. Exhibiting Deformities of Persons.
 11263. Using or Exposing Animal With Glanders.
 11264. Animal Having Glanders to Be Killed.
 11265. Adulterated Candies.
 11266. Unsafe Buildings.
 11267. Protecting Mining Shaft in City—Penalty.
 11268. Cages in Mines Must Be Cased In.
 11269. Stopping Near Shaft.
 11270. Running Cage at Excessive Speed.
 11271. Maintaining Buildings Near Mouth of Shaft.
 11272. Penalties.
 11273. Protection of Underground Miners—Escapement Shaft.
 11274. To What Mines Applicable.
 11275. Penalty.
 11276. Depositing Coal Slack in Streams.
 11277. Same—Penalty.
 11278. Animals Killed by Railroads.
 11279. Violating Railroad Regulations.
 11280. Inspection of Mines—Penalties—Dams and Reservoirs, Unsafe.
 11281. Sale or Manufacture of Maxim Silencers and Various Explosives for Wrongful Use a Felony.
 11282. Same—Who Are Principals.
 11283. Same—Possession Presumptive Evidence of What.

11229. Death from explosions, etc. Every person having charge of a steam-boiler or steam-engine, or other apparatus for generating or employ-

ing steam, used in any manufactory, or on a railroad, or in any vessel, or in any kind of mining, milling, or mechanical works, who wilfully, or from ignorance or neglect, creates or allows to be created such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is produced, is punishable by imprisonment in the state prison for not less than one nor more than ten years.

History: En. Sec. 670, Pen. C. 1895; re-en. Sec. 8478, Rev. C. 1907. Cal. Pen. C. Sec. 368.

11230. Death from collision on railroads. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad car, locomotive, or train, who wilfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing, whereby the death of a human being is produced, is punishable by imprisonment in the state prison for not less than one nor more than ten years.

History: En. Sec. 671, Pen. C. 1895; re-en. Sec. 8479, Rev. C. 1907. Cal. Pen. C. Sec. 369.

11231. Public nuisances defined. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

History: En. Sec. 672, Pen. C. 1895; re-en. Sec. 8480, Rev. C. 1907. Cal. Pen. C. Sec. 370.

11232. Unequal damage. Any act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

History: En. Sec. 673, Pen. C. 1895; re-en. Sec. 8481, Rev. C. 1907. Cal. Pen. C. Sec. 371.

11233. Maintaining a nuisance a misdemeanor. Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty which relates to the removal of a public nuisance, is guilty of a misdemeanor.

History: En. Sec. 674, Pen. C. 1895; re-en. Sec. 8482, Rev. C. 1907. Cal. Pen. C. Sec. 372.

11234. Establishing or keeping a pesthouse within cities, towns, etc. Every person who establishes or keeps, or causes to be established or kept, within the limits of any city, town, or village, any pesthouse, hospital, or place for persons affected with contagious or infectious diseases, is guilty of a misdemeanor.

History: En. Sec. 675, Pen. C. 1895; re-en. Sec. 8483, Rev. C. 1907. Cal. Pen. C. Sec. 373.

An illustration is found in this section of the frequent legislative use of the term "city or town" without any definite pre-

fix, but under circumstances which would render it absurd to hold that only incorporated cities and towns are meant. State

ex rel. Powers v. Dale, 47 Mont. 227, 230, 131 Pac. 670; Ann. Cas. 1914D, 227.

11235. Putting dead animals in streets, rivers, etc. Every person who puts the carcass of any dead animal, or the offal from any slaughter-pen, corral, or butcher-shop, into any river, creek, pond, or reservoir, stream, street, alley, public highway, or road in common use, or who attempts to destroy the same by fire within one-fourth mile of any city, town, or village, and every person who puts the carcass of any dead animal, or any offal of any kind, in or upon the borders of any stream, pond, lake, or reservoir, from which water is drawn for the supply of the inhabitants of any city or town in this state, so that the drainage from such carcass or offal may be taken up by or in such stream, pond, lake, or reservoir, or who allows the carcass of any dead animal, or any offal of any kind, to remain in or upon the borders of any such stream, pond, lake, or reservoir within the boundaries of any land owned or occupied by him, or who keeps any horses, mules, cattle, swine, sheep, or livestock of any kind penned, corralled, or housed on, over, or on the borders of any such stream, pond, lake, or reservoir, so that the waters thereof shall become polluted by reason thereof, is guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed in section 11236 of these codes.

Related sections: 1739, 2484, 2649.

re-en. Sec. 8484, Rev. C. 1907. Cal. Pen.

History: En. Sec. 676, Pen. C. 1895; C. Sec. 374.

11236. Wilful violation of health laws. Every person who wilfully violates any of the laws of this state, relating to the preservation of the public health, is, unless a different punishment is prescribed by this code, punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or both.

History: En. Sec. 677, Pen. C. 1895; re-en. Sec. 8485, Rev. C. 1907. Cal. Pen. C. Sec. 377.

11237. Neglecting to perform duties under health laws. Every person charged with the performance of any duty under the laws of this state, relating to the preservation of the public health, who wilfully neglects or refuses to perform the same, is guilty of a misdemeanor.

History: En. Sec. 678, Pen. C. 1895; re-en. Sec. 8486, Rev. C. 1907. Cal. Pen. C. Sec. 378.

11238. Apothecary omitting to label drugs, or labeling them wrongfully, etc. Every apothecary, druggist, or person carrying on business as a dealer in drugs or medicines, or person employed as clerk or salesman by such person, who, in putting up any drugs or medicines, wilfully, negligently, or ignorantly omits to label the same, or puts an untrue label, stamp, or other designation of contents upon any box, bottle, or other package, containing any drugs or medicines, or substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor, or if death ensues, is guilty of a felony.

History: En. Sec. 679, Pen. C. 1895; re-en. Sec. 8487, Rev. C. 1907. Cal. Pen. C. Sec. 380.

11239. Selling opium, etc. Every person who sells, or in any way disposes of, to another person, any morphine, opium, cocaine, chloral-hydrate, or any of their compounds, except to a licensed physician, or on the authority of a certificate of such licensed physician, or fails to keep on file at his place of business any such certificate for inspection of all persons, after the same has been surrendered to him by the buyer of any such drugs, or uses or fills out any such certificate more than once for the benefit of the person presenting the same, or any other person, is punishable by fine not exceeding two hundred dollars. The provisions of this section do not apply to the sale of paregoric or any other mild compound of any of such drugs, nor do they apply to persons who are sick and in actual need of any of such drugs as a medicine.

History: En. Sec. 680, Pen. C. 1895; re-en. Sec. 8488, Rev. C. 1907.

11240. Putting extraneous substances in packages of goods usually sold by weight, with intent to increase weight. Every person who, in putting up in any bag, bale, box, barrel, or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels, or packages, by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel, or package, with intent thereby to sell the goods therein, or to enable another to sell the same, for an increased weight, is punishable by fine of not less than twenty-five dollars for each offense.

History: En. Sec. 681, Pen. C. 1895; re-en. Sec. 8489, Rev. C. 1907. Cal. Pen. C. Sec. 381.

11241. Adulterating foods, drugs, liquors, etc. Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor or wine, or any article used in compounding them, with a fraudulent intent, to offer the same or cause or permit it to be offered for sale as unadulterated or undiluted, and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, is guilty of a misdemeanor.

History: En. Sec. 682, Pen. C. 1895; Cited or applied as section 682, Penal re-en. Sec. 8490, Rev. C. 1907. Cal. Pen. Code, in *Kelley v. John R. Daily Co.*, 56 Mont. 63, 73, 181 Pac. 326. C. Sec. 382.

11242. Disposing of tainted food, etc. Every person who sells, or keeps for sale, or otherwise disposes of any article of food, drink, drug, or medicine, knowing that the same has become tainted, decayed, spoiled, or otherwise unwholesome, or unfit to be eaten or drunk, with intent to permit the same to be eaten or drunk, is guilty of a misdemeanor.

History: En. Sec. 683, Pen. C. 1895; re-en. Sec. 8491, Rev. C. 1907. Cal. Pen. C. Sec. 383.

11243. Sale of diseased carcasses without inspection forbidden. It shall be unlawful for any person to sell or offer for sale the carcass or any part of the carcass of an animal having actinomycosis (big jaw), tuberculosis, or any other infectious or contagious disease unless the same shall have been inspected and passed by a representative of the livestock sanitary board or the United States bureau of animal industry.

History: En. Sec. 1, p. 163, L. 1901; re-en. Sec. 8492, Rev. C. 1907; amd. Sec. 1, Ch. 39, L. 1917.

11244. Penalty for violation of act. Any person guilty of violating this act shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both fine and imprisonment.

History: En. Sec. 2, Ch. 39, L. 1917.

11245. Hotels serving adulterated foods must post cards announcing such facts. If a proprietor, manager, or other person having the management of any hotel, restaurant, or boarding-house in the State of Montana shall serve or cause to be served upon the tables to his or their guests any article of food known to said proprietor or manager of said hotel, restaurant, or boarding-house to be adulterated, he shall be guilty of a violation of this act, unless he or they shall have posted, hung up, and maintain in his or their public office and in his or their dining-room, in a conspicuous place in full view of his or their guests, a large red cardboard sign, the size of which shall be twelve inches in width, the words printed thereon in large, bold, black letters of the size of not less than seventy-two point type, "We Serve On Our Tables, No Food Stuffs Which Have Been Harmfully Adulterated." Be it further provided that the original labels shall always be maintained and kept upon the can, carton, box, bottle, barrel, or other receptacle containing any such goods which may be used for foods, until all of the contents of such cans, boxes, cartons, bottles, barrels, or any other receptacle containing any such foodstuffs shall have been used or totally destroyed.

History: En. Sec. 1, Ch. 169, L. 1907; Sec. 8513, Rev. C. 1907.

11246. Penalty for violation of act. For failure to put up and maintain such cards continuously in said public offices and dining-rooms heretofore mentioned, or to maintain the labels as this act directs, the proprietor or manager guilty of such failure shall be guilty of a violation thereof, the penalty for which shall be, for the first offense a fine of two hundred dollars and costs of court for the prosecution of the said cause; for the second offense a fine of three hundred dollars together with court costs and a term of not less than three months nor more than six months in the county jail; for the third offense a fine of six hundred dollars and court costs and a term in the state prison for a period of not less than one year nor more than three years.

History: En. Sec. 2, Ch. 169, L. 1907; Sec. 8514, Rev. C. 1907.

11247. Possession of adulterated food prima facie evidence of guilt. Any canned goods or foodstuffs purchased at the stores in Montana, or from any wholesale or retail stores in the United States which are labeled as being adulterated and served to their guests or stored upon the premises occupied by them shall be prima facie evidence of the guilt of such hotel, restaurant, or boarding-house proprietor or manager if such cards are not displayed as heretofore directed. Any state chemist or any sheriff or any of his deputies shall at all times have free and peaceable access during business hours in the storeroom, kitchen, or any other place where foods are stored or kept by the proprietor or manager aforesaid, for the purpose

of ascertaining the quality and brands of the goods used by said proprietor or manager.

History: En. Sec. 3, Ch. 169, L. 1907; Sec. 8515, Rev. C. 1907.

11248. Oleomargarine. Every person who manufactures for sale, or offers or exposes for sale, or has in his possession with intent to sell any article or substance in resemblance of butter or cheese, not the legitimate product of the dairy, and not made exclusively of milk or cream, or into which the oil or fat of animals not produced from milk enters as a component part, or into which the oil or fat of animals not produced from milk has been introduced to take the place of cream, must distinctly stamp, brand, or mark in some conspicuous place upon every firkin, tub, or package of such article or substance, in plain letters not less than one-fourth inch square each, the word "oleomargarine," or the words "imitation cheese," as the case may be; and in the retail sale of such article or substance, in parcels or otherwise, the seller must deliver to the purchaser therewith a printed label, bearing the plainly printed words "oleomargarine" or "imitation cheese," plainly marked as aforesaid.

History: En. Sec. 684, Pen. C. 1895; re-en. Sec. 8516, Rev. C. 1907. Cal. Pen. C. Sec. 383a.

garine, see notes in 2 Ann. Cas. 451; 17 Ann. Cas. 1100; Ann. Cas. 1913E, 413.

Agent's criminal responsibility for sale of oleomargarine in violation of statute, see note in L. R. A. 1918D, 726.

Constitutionality of state statutes regulating manufacture or sale of oleomar-

11249. Same. Every person dealing in the article or substance described in the next preceding section, and every hotel, restaurant, or boarding-house keeper using such article or substance in his business must continuously and conspicuously keep posted up in not less than three exposed positions, in and about his place of business, a printed notice in the following words: "oleomargarine" or "imitation cheese" "sold (or used) here," which notice must be plainly printed with letters not less than two inches square each, and must, upon furnishing the article or substance to his customers or guests, if inquiry is made, distinctly inform each of them that the article furnished is not butter or cheese, the genuine product of the dairy, but is oleomargarine or imitation cheese.

History: En. Sec. 685, Pen. C. 1895; re-en. Sec. 8517, Rev. C. 1907.

11250. Penalty. Every person and every officer or agent of any corporation who violates any of the provisions of the last two preceding sections is punishable by imprisonment in the county jail not exceeding one month, or by fine not exceeding one hundred dollars.

History: En. Sec. 686, Pen. C. 1895; re-en. Sec. 8518, Rev. C. 1907.

11251. Obstructing attempts to extinguish fires. Every person who, at the burning of a building, disobeys the lawful orders of any public officer or fireman, or offers any resistance to, or interferes with, the lawful efforts of any fireman or any company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents, or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

History: En. Sec. 687, Pen. C. 1895; re-en. Sec. 8519, Rev. C. 1907. Cal. Pen. C. Sec. 385.

11252. Riding or driving faster than a walk on public bridges. Every person who wilfully rides or drives faster than a walk, on or over any public bridge, and every person who drives any loose stock, such as horses, mules, or cattle over any public bridge in a larger number than fifteen head at a time, is punishable by a fine not exceeding twenty dollars.

History: Ap. p. Secs. 1, 2, pp. 35, 36, L. 1887; en. Sec. 688, Pen. C. 1895; re-en. Sec. 1876; re-en. Sec. 189, p. 394, Rev. Stat. 8520, Rev. C. 1907. 1879; re-en. Sec. 232, 4th Div. Comp. Stat.

11253. Intoxication of engineers, conductors, or drivers of locomotives or cars. Every person who is intoxicated while in charge of a locomotive engine, or while as conductor or driver upon any railroad car or train, whether propelled by steam or otherwise, or while acting as train dispatcher, or as telegraph operator receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor.

History: En. Sec. 690, Pen. C. 1895; re-en. Sec. 8521, Rev. C. 1907. Cal. Pen. C. Sec. 391.

11254. Placing passenger-cars in front of freight cars. Every person who, in making up or running railroad trains, places or runs, causes to be placed or run, any freight car in the rear of passenger-cars, is guilty of a misdemeanor; and if loss of life or limb results from such placing or running, is guilty of felony. The term "freight car" as used in this section does not include a baggage, express or mail car.

History: En. Sec. 691, Pen. C. 1895; re-en. Sec. 8522, Rev. C. 1907. Cal. Pen. C. Sec. 392.

11255. Violation of duty by employees of railroad companies. Every engineer, conductor, brakeman, switchtender, or other officer, agent, or servant of any railroad company, who is guilty of any wilful violation or omission of his duty as such officer, agent, or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

History: En. Sec. 692, Pen. C. 1895; re-en. Sec. 8523, Rev. C. 1907. Cal. Pen. C. Sec. 393.

11256. Violation of duty by railroads. Every person or corporation who owns, carries on, or has control of a railroad and fails to observe any of the regulations or requirements or perform any of the duties prescribed by law in reference to railroads, the penalty for which is not otherwise provided for in this code, is punishable by a fine not exceeding five thousand dollars.

History: En. Sec. 693, Pen. C. 1895; re-en. Sec. 8524, Rev. C. 1907.

If a person is injured by the failure of a railroad company to comply with section 6551, with reference to keeping the right of way free from combustible material, his

damages are compensatory only. *Cooper v. Northern Pacific Ry. Co.*, 212 Fed. 533, 535.

Cited or applied as section 8524, Revised Codes, in *John v. Northern Pacific Ry. Co.*, 42 Mont. 18, 37, 111 Pac. 632, 32 L. R. A. (N. S.) 85.

11257. Exposing person infected with any contagious disease in a public place. Every person who wilfully exposes himself or another infected with any contagious or infectious disease, in any public place or

thoroughfare, except in his necessary removal in a manner the least dangerous to the public health, is guilty of a misdemeanor.

History: En. Sec. 694, Pen. C. 1895; re-en. Sec. 8525, Rev. C. 1907. Cal. Pen. C. Sec. 394.

11258. Fraudulent practices to affect the market price. Every person who wilfully makes or publishes any false statement, spreads any false rumor, or employs any other false or fraudulent means or device with intent to affect the market price of any kind of property, is guilty of a misdemeanor.

History: En. Sec. 695, Pen. C. 1895; re-en. Sec. 8526, Rev. C. 1907. Cal. Pen. C. Sec. 395.

11259. Selling firearms and ammunition to Indians. Every person who sells or furnishes to any Indian any firearm or ammunition therefor, is guilty of a misdemeanor.

History: En. Sec. 696, Pen. C. 1895; re-en. Sec. 8527, Rev. C. 1907. Cal. Pen. C. Sec. 398.

11260. Death from mischievous animals. If the owner of a mischievous animal, knowing its propensities, wilfully suffers it to go at large, or keeps it without ordinary care, and such animal while so at large, or while not kept with ordinary care, kills any human being who has taken all the precautions which the circumstances permitted, or which a reasonable person would ordinarily take in the same situation, is guilty of a felony.

History: En. Sec. 697, Pen. C. 1895; re-en. Sec. 8528, Rev. C. 1907.

11261. Aiding or encouraging suicide a felony. Every person who deliberately aids, or advises or encourages another to commit suicide is guilty of a felony.

History: En. Sec. 698, Pen. C. 1895; re-en. Sec. 8529, Rev. C. 1907. Cal. Pen. C. Sec. 401.

Guilt of one aiding or abetting suicide, see notes in 4 Ann. Cas. 1157; 16 Ann. Cas. 522; 13 A. L. R. 1259; 66 L. R. A. 304; 22 L. R. A. (N. S.) 243.

11262. Exhibiting deformities of persons. Every person exhibiting the deformities of another, or his own deformities, for hire, is guilty of a misdemeanor; and every person who shall by any artificial means give to any person the appearance of a deformity, and shall exhibit such person for hire, is guilty of a misdemeanor.

History: En. Sec. 699, Pen. C. 1895; re-en. Sec. 8530, Rev. C. 1907. Cal. Pen. C. Sec. 400.

11263. Using or exposing animal with glanders. Any person who shall knowingly sell or offer for sale, or use, or expose, or who shall cause or procure to be sold or offered for sale, or used, or exposed, any horse, mule, or other animal having the disease known as glanders, farcy, or any contagious disease, or violates any of the provisions of section 1900 (3063) of the Political Code, is guilty of a misdemeanor.

History: En. Sec. 700, Pen. C. 1895; re-en. Sec. 8531, Rev. C. 1907. Cal. Pen. C. Sec. 402.

Note.—The section above referred to has been repealed.

11264. Animal having glanders to be killed. Every animal having glanders or farcy shall at once be deprived of life by the owner or person having charge thereof, upon discovery or knowledge of its condition; and any such owner or person omitting or refusing to comply with the provisions of this section is guilty of a misdemeanor.

History: En. Sec. 701, Pen. C. 1895; re-en. Sec. 8532, Rev. C. 1907. Cal. Pen. C. Sec. 402b.

11265. Adulterated candies. Every person who shall, by himself, his servant or agent, or as the servant or agent of any other person or corporation, manufacture for sale, or knowingly sell or offer to sell, any candy adulterated by the admixture of terra alba, barytes, talc, or any mineral substance, by poisonous colors or flavors or other ingredients deleterious or detrimental to health, is guilty of a misdemeanor.

History: En. Sec. 702, Pen. C. 1895; amd. Sec. 1, p. 151, L. 1899; re-en. Sec. 8533, Rev. C. 1907. Cal. Pen. C. Sec. 402a.

11266. Unsafe buildings. Every person who constructs, owns, controls, or has the custody of any building erected to accommodate public assemblies, including churches, schools, courthouses, theatres, public halls, ball-rooms, or any other building of like character, and fails to have the openings for ingress and egress therein furnished with doors hung on hinges so that they open outwardly from the rooms and from the main building itself, is punishable by imprisonment in the county jail not exceeding three months or by fine not exceeding two hundred and fifty dollars, or both, and the building or buildings owned by such persons may by order of the court be closed until the doors thereof be made to conform to the provision of this section.

History: En. Sec. 703, Pen. C. 1895; re-en. 8534, Rev. C. 1907.

11267. Protecting mining shaft in city—Penalty. Every person who sinks any shaft or runs any drift or cut, or causes the same to be done, within the limits of any city or town or village in this state, or within one mile of the corporate limits of any city or town, or within three hundred feet of any street, road, or public highway, and who shall fail to place a substantial cover over or tight fence around the same, is punishable by a fine not exceeding one thousand dollars. The owner of any property, or his agent in charge thereof, or any person in possession of the same shall be deemed to be within the provisions of this act if he permit any such shaft, drift, or cut to remain open, exposed, or unprotected upon his property, or the property in his charge or possession, for a period of more than ten days. Mining, irrigating, and other ditches may be dug or cut to a depth not exceeding ten feet without incurring the penalty of this section.

History: En. Sec. 1, p. 593, Cod. Stat. 1871; re-en. Sec. 255, 4th Div. Comp. Stat. 1887; amd. Sec. 704, Pen. C. 1895; amd. Sec. 1, p. 149, L. 1899; re-en. Sec. 8535, Rev. C. 1907.

An illustration is found in this section of the frequent legislative use of the term "city or town" without any definite prefix, but under circumstances which would render it absurd to hold that only incor-

porated cities and towns are meant. State ex rel. Powers v. Dale, 47 Mont. 227, 230, 131 Pac. 670, Ann. Cas. 1914D, 227.

Failure to observe the duty imposed by this section, upon the person owning or in possession of property within the limits of a city or town, or within one mile of such limits, on which there is a mining shaft, to place a cover over or a tight fence around the same, is negligence per se. Conway v. Monidah Trust, 47 Mont.

269, 278, 132 Pac. 26, L. R. A. 1915E, 500. See *Nixon v. Montana, Wyoming & Southwestern Ry. Co.*, 50 Mont. 95, 100, 145 Pac. 8, Ann. Cas. 1916B, 299; *Kelley v. John R. Daily Co.*, 56 Mont. 63, 73, 181 Pac. 326.

This section has no application to a ditch or trench temporarily opened for the purpose of laying sewer-pipe. *McLaughlin v. Bardsen et al.*, 50 Mont. 177, 145 Pac. 954.

Though a plaintiff infant was a technical trespasser upon defendant's mining claim, into an unguarded shaft on which he fell, the defendant's omission to comply with the requirement imposed upon him by this section rendered him liable to damages for injuries suffered by the plaintiff. *Conway v. Monidah Trust*, 47 Mont. 269, 279, 132 Pac. 26, L. R. A. 1915E, 500. See *Nixon v. Montana, Wyoming & Southwest-*

ern Ry. Co., 50 Mont. 95, 100, 145 Pac. 8, Ann. Cas. 1916B, 299.

The fact that defendant had not sunk the shaft into which plaintiff fell did not relieve him of liability, this section making it unlawful for the owner or possessor to permit the shaft to remain open or unprotected for a period of more than ten days, without regard to when or by whom it was sunk. *Conway v. Monidah Trust*, 47 Mont. 269, 281, 132 Pac. 26, L. R. A. 1915E, 500.

Evidence held insufficient to show that the shaft into which plaintiff fell was situated within a mile of the corporate limits of a city, a fact necessary to be shown to bring defendant within the purview of this section. *Conway v. Monidah Trust*, 47 Mont. 269, 282, 132 Pac. 26, L. R. A. 1915E, 500.

11268. Cages in mines must be cased in. It is unlawful for any corporation or person to sink or work, through any vertical shaft where mining cages are used, to a greater depth than three hundred feet, unless said shaft shall be provided with an iron-bonneted safety cage, to be used in the lowering and hoisting of the employees thereof, said cage to be also provided with sheet iron or steel casing not less than one-eighth inch in diameter; doors to be made of the same material shall be hung on hinges, or may be made to slide and shall not be less than five feet high from the bottom of the cage, and said door must be closed when lowering or hoisting the men. Provided, that when such cage is used for sinking only, it need not be equipped with such doors as are hereinbefore provided for. The safety apparatus, whether consisting of eccentrics, springs, or other device, must be securely fastened to the cage, and must be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. The iron bonnet of the aforesaid cage must be made of boiler sheet iron, of good quality, of at least three-sixteenths of an inch in thickness, and must cover the top of such cage in such manner as to afford the greatest protection to life and limb from anything falling down said shaft. It shall be the duty of the mining inspector and his assistant to see that all cages are kept in compliance with this section and to also see that the safety dogs are kept in good order. Every person or corporation failing to comply with any of the provisions of this section is punishable by a fine of not less than three hundred dollars nor more than one thousand dollars.

History: Ap. p. Sec. 705, Pen. C. 1895; amd. Sec. 1, p. 245, L. 1897; en. Sec. 1, Ch. 60, L. 1903; re-en. Sec. 8536, Rev. C. 1907.

This section is a proper exercise of the police power of the state; its manifest design being "to guard against the dangers incident to lowering and elevating men in deep mining shafts." *State v. Anaconda Copper Min. Co.*, 23 Mont. 498, 503, 59 Pac. 854; *Monson v. La France Copper Co.*, 39 Mont. 50, 59, 101 Pac. 243; 133 Am. St. Rep. 549.

In a prosecution for the violation of this section, evidence that the devices or cages therein referred to would be dangerous is inadmissible, since the question whether such appliances were the best or wisest method is for the legislature to decide. *State v. Anaconda Copper Min. Co.*, 23 Mont. 498, 503, 59 Pac. 854.

Where the legislature has declared, as in the above section, that the master shall adopt certain precautions to guard against danger to his employees, the common-law rule of reasonable care is no longer the measure of his duty, and any failure on

his part to observe the required precautions is such a breach of duty as will render him liable to the servant for any injury caused to the latter by his disobedience. *Monson v. La France Copper Co.*, 39 Mont. 50, 60, 101 Pac. 243, 133 Am. St. Rep. 549. See *Westlake v. Keating Gold Min. Co.*, 48 Mont. 120, 128, 136 Pac. 38; *Ball Ranch Co. v. Hendrickson*, 50 Mont. 220, 226, 146 Pac. 278; *Kelley v. John R. Daily Co.*, 56 Mont. 63, 72, 181 Pac. 326.

In an action to recover damages for death of an employee by reason of having fallen out of a cage alleged to be due to defendant's negligence in failing to see that the doors of the cage were in place, the evidence must show that the alleged negligence was the efficient cause of the injury. *Monson v. La France Copper Co.*, 39 Mont. 50, 61, 101 Pac. 243, 133 Am. St. Rep. 549.

Plaintiff, whose limb was crushed by reason of an unguarded door, cannot be said to have waived the absence of the door by a request that it be removed, made by him some three months before the accident, where, between the time it was removed and the date of the injury, he had left the defendant's service, and where in the meantime much sinking had been done, during which operations there was no necessity for a door. *Osterholm v. Boston etc. Min. Co.*, 40 Mont. 508, 522, 107 Pac. 499.

The word "men" applies to the hoisting or lowering of one man, as well as to the men in a body when going on or off shift. *Osterholm v. Boston etc. Min. Co.*, 40 Mont. 508, 520, 107 Pac. 499.

The term "sinking" has no application to the cutting of stations, even though the latter operation be a necessary part of the process of sinking. *Osterholm v. Boston etc. Min. Co.*, 40 Mont. 508, 520, 107 Pac. 499.

The failure of a mining company to equip the cage upon which plaintiff was being hoisted with doors, as required by this section, did not deprive said company of the right to interpose the defense of assumption of risk or contributory negligence. *Osterholm v. Boston etc. Min. Co.*, 40 Mont. 508, 527, 107 Pac. 499.

The duty imposed on the employer by this statute is a continuing one, and where the employee has no choice, as where he is in a deep mining shaft and has no means of egress other than that provided by the employer, and must use a mining cage from which the doors are missing, contrary to the provisions of this section, he will be presumed to have submitted to its use from necessity, and, therefore, not to have assumed the attendant risk. *Monson v. La France Copper Co.*, 43 Mont. 65, 71, 114 Pac. 778.

This section does not create any right of action or destroy any defense available at the time of its enactment. *Maronen v. Anaconda Copper Min. Co.*, 48 Mont. 249, 258, 136 Pac. 968.

This section is penal statute, and its violation is a crime; but the fact that a penalty is attached for its violation does not render the violator immune from civil liability under section 9076. *Maronen v. Anaconda Copper Min. Co.*, 48 Mont. 249, 258, 136 Pac. 968.

In an action in which damages were sought to be recovered for the death of a mine employee, charged to have been due to legal negligence of defendant in attempting to hoist him to the surface of the mine in a cage, the doors of which had not been closed as provided in this section, defendant was not, because of the fact that the statute makes omission in this respect punishable by a fine, limited to those defenses available in a criminal action, but could plead any of the defenses ordinarily interposed in negligence cases. *Maronen v. Anaconda Copper Min. Co.*, 48 Mont. 249, 261, 136 Pac. 968.

This section does not make it obligatory upon mine operators to employ a station-tender at each station to open and close the cage doors, where only a small number of miners is engaged in active mining, and does not prohibit, either expressly or impliedly, the imposition of the duty of opening and closing them upon a miner, provided he be capable, understands the method pursued in fulfilling the additional requirement, and is not encumbered with work which would interfere with its discharge. *Maronen v. Anaconda Copper Min. Co.*, 48 Mont. 249, 266, 136 Pac. 968.

11269. Stopping near shaft. It is unlawful for any corporation or person operating any mine in this state worked through a vertical or incline shaft to stop within a less distance than twenty-five feet of the said shaft, when other work is being carried on below said stopping.

History: En. Sec. 1, Ch. 82, L. 1903, re-en. Sec. 8537, Rev. C. 1907.

11270. Running cage at excessive speed. It is unlawful for any person or corporation operating any mine in this state worked through a vertical or incline shaft, where a cage or other device is used for the purpose of

hoisting or lowering men, to run such cage when men are upon the same at a greater rate of speed than eight hundred feet per minute.

History: En. Sec. 2, Ch. 82, L. 1903; re-en. Sec. 8538, Rev. C. 1907.

11271. Maintaining buildings near mouth of shaft. It is unlawful for any person, company, or corporation to erect or maintain any building or inclosure used for a blacksmith-shop or drying-room within a distance of fifty feet of the mouth of any tunnel or shaft, unless the same shall be fire proof in its construction.

History: En. Sec. 3, Ch. 82, L. 1903; re-en. Sec. 8539, Rev. C. 1907.

11272. Penalties. The penalty for violating the provisions of any of the preceding sections is the same as provided in section 11268 of these codes, provided, that when it shall appear that any engineer has violated the express order of his employer in running his engine at a greater speed than eight hundred feet per minute, the engineer alone shall be subject to prosecution, and to the fine imposed by the provisions of this act.

History: En. Sec. 4, Ch. 82, L. 1903; re-en. Sec. 8540, Rev. C. 1907.

11273. Protection of underground miners—Escapement shaft. It is the duty of any person, company, or corporation who shall have sunk on any mine a vertical or incline to a greater depth than one hundred feet, and who shall have the top of such shaft or hoisting opening covered or enclosed by a shaft or building which is not fireproof, and who shall have drifted on or along the vein or veins thereof a distance of two hundred feet or more, after cross-cutting to the same, and shall have commenced to stope, to provide and maintain to the hoisting shaft or the opening through which men are let into or out of the mine and the ore is extracted, a second escapement shaft, raise, or opening, or an underground opening or communication between every such mine and some other contiguous mine; provided, that in case such contiguous mine belongs to a different person, company, or corporation, the right to use the outlet through such contiguous mine in all cases when necessary, or in cases of accident, must be secured and kept in force. Where such an escapement shaft or opening shall not be in existence at the time that stoping is commenced, work upon such an escapement shaft or opening must be commenced as soon as stoping begins and be diligently prosecuted until the same is completed, and said escapement shaft, raise, or opening shall be continued to and connected with the lowest workings in the mine. The exit, escapement shaft, raise, or opening provided for in the foregoing paragraphs must be of sufficient size as to afford an easy passage-way, and if it be a raise, or shaft, must be provided with good and substantial ladders from the deepest workings to the surface. Whenever the exit or outlet herein provided for is not in a direct or continuous course, signboards, plainly marked, showing the direction to be taken, must be placed at each departure from the continuous course.

History: En. Sec. 1, p. 66, L. 1897; re-en. Sec. 8541, Rev. C. 1907.

11274. To what mines applicable. This act shall apply only to quartz mines in which nine or more men are employed underground, and shall not apply to mines not actually extracting ores, by stoping, nor to mines in which the shaft or hoisting opening, or hauling-way, is not covered by a

shafthouse, and has no building structure within thirty feet of the shaft or opening, nor to mines in which the hoisting shaft or opening shall be covered by or enclosed in a fireproof shaft or building.

History: En. Sec. 2, p. 67, L. 1897; re-en. Sec. 8542, Rev. C. 1907.

11275. Penalty. The penalty for violating any of the provisions of the preceding section is the same as provided in section 11268 of these codes.

History: En. Sec. 3, p. 67, L. 1897; re-en. Sec. 8543, Rev. C. 1907.

11276. Depositing coal slack in streams. All persons owning or having in operation, and all persons who may hereafter own or put in operation in the state of Montana, either in person or by agent, any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, are hereby required to so care for any coal slack or other refuse emanating from such coal mining operation as to prevent the same from mingling with the waters of such streams.

History: En. Sec. 1, p. 165, L. 1901; amd. Sec. 1, Ch. 6, L. 1903; re-en. Sec. 8557, Rev. C. 1907.

11277. Same—Penalty. All persons owning or operating, or who may hereafter own or operate any coal mine on any stream containing fish or water which is used for domestic purposes, or for irrigation, who shall dump, cart, or deposit, or cause or suffer to be deposited, in such stream any such coal slack or other refuse emanating from such coal-mining operation, shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any court of competent jurisdiction, shall be fined in any sum not less than two hundred dollars nor more than five hundred dollars for each and every offense.

History: En. Sec. 1, p. 165, L. 1901; re-en. Sec. 2, Ch. 6, L. 1903; re-en. Sec. 8558, Rev. C. 1907.

11278. Animals killed by railroads. Except as otherwise provided, every person who violates any of the provisions of sections 6540 to 6556, inclusive of the Civil Code, relating to livestock killed or injured by railroads, is guilty of a misdemeanor.

History: En. Sec. 720, Pen. C. 1895; re-en. Sec. 8561, Rev. C. 1907.

11279. Violating railroad regulations. Every person who violates any of the provisions of section 6521 of these codes relating to the regulations of railroad companies must, on conviction of any of the offenses therein named, be punished by a fine not less than five hundred nor more than ten thousand dollars.

History: En. Sec. 721, Pen. C. 1895; re-en. Sec. 8562, Rev. C. 1907.

11280. Inspection of mines—Penalties—Dams and reservoirs, unsafe. Every person who violates any of the provisions of sections 3418 to 3431, inclusive, of the Political Code, relating to the inspection of mines, and every person who violates any of the provisions of sections 2658 to 2671, inclusive, of the Political Code, relating to dams and reservoirs, is guilty of a misdemeanor.

History: En. Sec. 722, Pen. C. 1895; re-en. Sec. 8563, Rev. C. 1907.

11281. Sale or manufacture of Maxim silencers and various explosives for wrongful use a felony. Any person who shall make, manufacture, compound, buy, sell, give away, offer for sale or to give away, transport, or have in possession any Maxim silencer, bomb, nitroglycerin, giant, oriental, or thunderbolt powder, dynamite, ballistile, fulgarite, detonite, or any other explosive compound, or any inflammable material, or any instrument or agency, with intent that the same shall be used in this state or anywhere else for the injury or destruction of public or private property, or the assassination, murder, injury, or destruction of any person or persons, either within this state or elsewhere, or knowing that such explosive compounds or such materials, instruments, or agencies are intended to be used by any other person or persons for any such purpose, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not less than five years nor more than thirty years, or by a fine of not less than one thousand dollars nor more than twenty thousand dollars, or by both such fine and imprisonment.

History: En. Sec. 1, Ch. 6, Ex. L. 1918.

11282. Same—Who are principals. All persons aiding, abetting, or in any manner assisting in the manufacture, compounding, buying, selling, offering for sale, or transporting any explosive compounds, or any inflammable material, or any instrument or agency, either by furnishing material or ingredients, or soliciting or contributing money or other property with which to purchase said materials or ingredients, or by assisting by skill or labor, or by acting as agents for the principal, or in any manner aiding as accessories before the fact, knowing that any of such explosive compounds, or such materials, instruments, or agencies are intended to be used by the principals or any other person or persons for any of the purposes mentioned in the preceding section, shall be deemed principals and may be convicted and punished in the same manner and to the same extent as such principal or principals.

History: En. Sec. 2, Ch. 6, Ex. L. 1918.

11283. Same—Possession presumptive evidence of what. The possession of any Maxim silencer or bomb of any kind, or chemical compounds intended only for the destruction of life or property, shall be presumptive evidence that the same are intended to be used in the destruction of or injury to property or life, within the meaning of this act.

History: En. Sec. 3, Ch. 6, Ex. L. 1918.

CHAPTER 38.

MISCELLANEOUS CRIMES AGAINST THE PUBLIC PEACE.

- Section** 11284. Disturbance of Public Meetings Other Than Religious or Political.
 11285. Riot Defined.
 11286. Riot, Punishment of.
 11287. Rout Defined.
 11288. Unlawful Assembly Defined.
 11289. Punishment of Rout and Unlawful Assembly.
 11290. Remaining Present at Place of Riot, etc., After Warning to Disperse.
 11291. Magistrate Neglecting or Refusing to Disperse Rioters.
 11292. Consequence of Resisting Process After a County Has Been Declared in a State of Insurrection.
 11293. Prizefights.

- 11294. Persons Present at Prizefights.
- 11295. Leaving the State to Engage in Prizefights.
- 11296. Boxing or Wrestling Matches.
- 11297. Disturbing the Peace.
- 11298. Refusing to Disperse Upon Lawful Command.
- 11299. Exhibiting Deadly Weapon in Rude, etc., Manner, or Using the Same Unlawfully.
- 11300. Forceful Entry and Detainer.
- 11301. Returning to Take Possession of Lands After Being Removed by Legal Proceedings.
- 11302. Carrying Certain Concealed Weapons in Cities or Towns Forbidden—Punishment.
- 11303. Carrying Certain Concealed Weapons Outside of Cities or Towns Forbidden—Punishment.
- 11304. Same—Who Excepted From Act.
- 11305. Arrest Without Warrant—Duty of Peace Officers.
- 11306. District Judge May Issue Permits to Carry Concealed Weapons.
- 11307. Definition of Concealed Weapons.
- 11308. Definition of Unincorporated Town.
- 11309. Jurisdiction of Courts.
- 11310. Selling or Dealing in Toy Pistols and Similar Appliances a Misdemeanor.
- 11311. Same—Public Nuisance—Duty of Officers.
- 11312. Same—Magistrate to Destroy.
- 11313. Duty of Mayor.
- 11314. Prohibiting the Carrying of Firearms by Indians While Off Reservation.
- 11315. Bringing Armed Men Into the State.
- 11316. Disturbance of Railway Trains—Punishment.
- 11317. Police Power of Railroad Conductors.

11284. Disturbance of public meetings other than religious or political.

Every person who, without authority of law, disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such as is mentioned in sections 10766 and 11042, is guilty of a misdemeanor.

History: En. Sec. 740, Pen. C. 1895; For text treatment of "Breach of Peace," re-en. Sec. 8564, Rev. C. 1907. Cal. Pen. see 4 Cal. Jur. 471. C. Sec. 403.

11285. Riot defined. Any use of force or violence, disturbing the public peace, or any threats to use force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot.

History: En. Sec. 741, Pen. C. 1895; What constitutes riot and the liabilities of participants therein, see note in 94 Am. Dec. 136. re-en. Sec. 8565, Rev. C. 1907. Cal. Pen. C. Sec. 404. Unlawful parade as riot, see note in 9 A. L. R. 552.

Cited or applied as section 8565, Revised Codes, in *State v. Driscoll*, 49 Mont. 558, 565, 144 Pac. 153. Distinction between riot and unlawful assembly, see note in 17 Ann. Cas. 1149.

11286. Riot, punishment of. Any person who participates in any riot is punishable by imprisonment in the county jail not exceeding two years, or by a fine not exceeding two thousand dollars, or both.

History: En. Sec. 742, Pen. C. 1895; re-en. Sec. 8566, Rev. C. 1907. Cal. Pen. C. Sec. 405.

11287. Rout defined. Whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout.

History: En. Sec. 743, Pen. C. 1895; re-en. Sec. 8567, Rev. C. 1907. Cal. Pen. C. Sec. 406.

11288. Unlawful assembly defined. Whenever two or more persons assemble together to do an unlawful act, and separate without doing or advancing toward it, or to do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly.

History: Ap. p. Sec. 120, p. 206, Bank Stat. 1887; en. Sec. 744, Pen. C. 1895; re-en. Sec. 134, p. 300, Cod. Stat. 1871; re-en. Sec. 134, 4th Div. Rev. Stat. 1879; re-en. Sec. 144, 4th Div. Comp. Stat. 1887; en. Sec. 744, Pen. C. 1895; re-en. Sec. 8568, Rev. C. 1907. Cal. Pen. C. Sec. 407.

11289. Punishment of rout and unlawful assembly. Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor.

History: En. Sec. 745, Pen. C. 1895; re-en. Sec. 8569, Rev. C. 1907. Cal. Pen. C. Sec. 408.

11290. Remaining present at place of riot, etc., after warning to disperse. Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor.

History: En. Sec. 746, Pen. C. 1895; re-en. Sec. 8570, Rev. C. 1907. Cal. Pen. C. Sec. 409.

11291. Magistrate neglecting or refusing to disperse rioters. If a magistrate having notice of an unlawful or riotous assembly, mentioned in this chapter, neglects to proceed to the place of assembly, or as near thereto as he can with safety, and to exercise the authority with which he is vested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor.

History: En. Sec. 144, p. 303, Cod. Stat. 1871; re-en. Sec. 144, 4th Div. Rev. Stat. 1879; re-en. Sec. 159, 4th Div. Comp. Stat. 1887; amd. Sec. 747, Pen. C. 1895; re-en. Sec. 8571, Rev. C. 1907. Cal. Pen. C. Sec. 410.

11292. Consequence of resisting process after a county has been declared in a state of insurrection. A person who, after the publication of the proclamation authorized by section 11666, resists or aids in resisting the execution of process in any county declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the governor to quell or suppress an insurrection, is punishable by imprisonment in the state prison not less than two years.

History: En. Sec. 748, Pen. C. 1895; re-en. Sec. 8572, Rev. C. 1907. Cal. Pen. C. Sec. 411.

11293. Prizefights. Every person who engages in, instigates, encourages, or promotes any ring or prizefight, or any other premeditated fight or contention (without deadly weapons) either as principal, aid, second, umpire, surgeon or otherwise, is punishable by imprisonment in the state prison not exceeding two years.

Related section: 11296. See also sections 4551 to 4562.

History: Ap. p. Sec. 1, p. 108, L. 1885; re-en. Sec. 147, 4th Div. Comp. Stat. 1887; en. Sec. 749, Pen. C. 1895; re-en. Sec. 8573, Rev. C. 1907. Cal. Pen. C. Sec. 412.

Cited or applied as section 749, Penal Code, in State v. Woodman, 26 Mont. 348, 355, 67 Pac. 1118.

Prize fighting as a crime, see note in 15 L. R. A. 516.

11294. Persons present at prizefights. Every person wilfully present as a spectator at any fight or contention mentioned in the preceding section is guilty of a misdemeanor.

History: En. Sec. 750, Pen. C. 1895; re-en. Sec. 8574, Rev. C. 1907. Cal. Pen. C. Sec. 413. Cited or applied as section 750, Penal Code, in *State v. Woodman*, 26 Mont. 348, 355, 67 Pac. 1118.

11295. Leaving the state to engage in prizefights. Every person who leaves this state with intent to evade any of the provisions of the last two sections, and to commit any act out of this state, such as is prohibited by them, and who does any act which would be punishable under these provisions if committed within this state, is punishable in the same manner as he would have been in case such act had been committed within this state.

History: En. Sec. 751, Pen. C. 1895; re-en. Sec. 8575, Rev. C. 1907. Cal. Pen. C. Sec. 414.

11296. Boxing or wrestling matches. Every person who engages in, instigates, encourages, or promotes as principal, aid, second, umpire, or otherwise, any boxing, wrestling, or slugging match, with or without gloves, or who attends or is present at such contest, or hires, rents, or permits the use of any building or grounds for such purposes, is guilty of a misdemeanor. This section does not apply to boxing with soft gloves in any gymnasium for exercise.

Related section: 11293.

History: En. Sec. 752, Pen. C. 1895; re-en. Sec. 8576, Rev. C. 1907.

Note.—See sections 4551 to 4562 of the Political Code relating to licensing of athletic contests.

To hold that the provisions of this section relating to wrestling and slugging matches were intended to be repealed by chapter 97, act of 1913, known as the Kiley law, would be to give countenance to repeals by implication, inasmuch as the latter deals only with boxing contests, which it sanctions, but it does not touch

the provisions of this section, which prohibits wrestling and slugging matches. *State ex rel. Esgar v. District Court*, 56 Mont. 464, 467, 185 Pac. 157.

The Kiley law permitting boxing-matches, which was referred to and rejected by the people, did not repeal this section. *State ex rel. Esgar v. District Court*, 56 Mont. 464, 470, 185 Pac. 157.

Cited or applied as section 8576, Revised Codes, in *Brown v. Independent Publishing Co.*, 48 Mont. 374, 379, 138 Pac. 258; *State ex rel. O'Rourke v. District Court*, 56 Mont. 476, 477, 185 Pac. 157.

11297. Disturbing the peace. Every person who wilfully and maliciously disturbs the peace of any neighborhood or person by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight or fighting, or who, on the public streets of any town, or upon the public highways, runs any horserace, either for a wager or for amusement, or fires any gun or pistol in such town, or uses any vulgar, profane, or indecent language within the presence or hearing of any women or children, in a loud and boisterous manner, is punishable by a fine not exceeding two hundred dollars, or by imprisonment in the county jail for not more than ninety days, or both.

History: Ap. p. Sec. 117, p. 206, *Bannack Stat.*; re-en. Sec. 131, p. 299, *Cod. Stat.* 1871; re-en. Sec. 131, 4th Div. Rev. Stat. 1879; amd. Sec. 1, p. 42, L. 1883; re-en. Sec. 141, 4th Div. Comp. Stat. 1887; amd. Sec. 1, p. 77, Ex. L. 1887; amd. Sec. 753, Pen. C. 1895; re-en. Sec. 8577, Rev. C. 1907. Cal. Pen. C. Sec. 415.

A person who, in the presence of a large number of women and children, conducts himself in a boisterous, offensive, and disorderly manner, and uses foul and unseemly language, is guilty of a misdemeanor, and, under section 11753, is subject to arrest by any officer who is present, even without a warrant; but no more force

can be used for that purpose than is necessary. *Rand v. Butte Electric Ry. Co.*, 40 Mont. 398, 404, 417, 107 Pac. 87.

Cited or applied as section 753, Penal Code, in *State v. Koch*, 33 Mont. 490, 495, 85 Pac. 272, 8 Ann. Cas. 804.

Disorderly language as disturbance of public peace, see note in 32 L. E. A. (N. S.) 505.

11298. Refusing to disperse upon lawful command. If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a public officer, the persons so offending are severally guilty of a misdemeanor.

History: En. Sec. 118, p. 306, Bannack Stat.; re-en. Sec. 132, p. 299, Cod. Stat. 1871; re-en. Sec. 132, 4th Div. Rev. Stat. 1879; re-en. Sec. 142, 4th Div. Comp. Stat.

1887; amd. Sec. 754, Pen. C. 1895; re-en. Sec. 8578, Rev. C. 1907. Cal. Pen. C. Sec. 416.

11299. Exhibiting deadly weapon in rude, etc., manner, or using the same unlawfully. Every person who, not in necessary self-defense, in the presence of two or more persons, draws or exhibits any deadly weapon in a rude, angry, and threatening manner, or who in any manner unlawfully uses the same in any fight or quarrel, is guilty of a misdemeanor.

Related section: 11530.

History: En. Sec. 755, Pen. C. 1895; re-en. Sec. 8579, Rev. C. 1907. Cal. Pen. C. Sec. 417.

Note.—For earlier acts see section 39, p. 183, Bannack Statutes; re-enacted as

section 62, p. 279, Codified Statutes 1871; re-enacted as section 62, Fourth Division Revised Statutes 1879; amended as section 1, p. 74, Laws of 1885; re-enacted as section 65, Fourth Division Compiled Statutes 1887.

11300. Forcible entry and detainer. Every person using or procuring, encouraging or assisting another to use any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, is guilty of a misdemeanor.

History: En. Sec. 756, Pen. C. 1895; re-en. Sec. 8580, Rev. C. 1907. Cal. Pen. C. Sec. 418.

11301. Returning to take possession of lands after being removed by legal proceedings. Every person who has been removed from any lands by process of law or who has been removed from any lands pursuant to the lawful adjudication or direction of any court, tribunal, or officer, and who afterwards returns to settle, reside upon, or take possession of such lands is guilty of a misdemeanor.

History: En. Sec. 757, Pen. C. 1895; re-en. Sec. 8581, Rev. C. 1907. Cal. Pen. C. Sec. 419.

11302. Carrying certain concealed weapons in cities or towns forbidden—Punishment. Every person who, within the limits of any city or town, carries or bears concealed upon his person a dirk, dagger, pistol, revolver, slingshot, swordcane, billy, knuckles made of any metal or hard substance, knife having a blade four inches long or longer, razor, not including a safety razor, or other deadly weapon, shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment,

or may be punished by imprisonment in the state penitentiary for a period not exceeding five years.

History: En. Sec. 1, Ch. 74, L. 1919.

Note.—For earlier acts see section 1, p. 62, Laws of 1883; re-enacted as section 66, Fourth Division Compiled Statutes 1887; amended as section 758, Penal Code 1895; re-enacted as section 8582, Revised Codes 1907; amended as section 1, chapter 58, Laws of 1911.

Cited or applied as section 8582, Revised Codes, before amendment, in *State ex rel. Powers v. Dale*, 47 Mont. 227, 230, 131 Pac. 670, Ann. Cas. 1914D, 227.

What manner of carrying weapon violates statute against carrying concealed weapons, see notes in 11 Ann. Cas. 1105; 23 L. R. A. (N. S.) 173.

Condition of weapon as affecting liability for carrying concealed weapons, see note in Ann. Cas. 1913E, 513.

What are weapons within offense of carrying concealed weapons, see note in 34 L. R. A. (N. S.) 1174.

11303. Carrying certain concealed weapons outside of cities or towns forbidden—Punishment. Every person who, without the limits of any city or town, carries or bears concealed upon his person a dirk, dagger, pistol, revolver, slingshot, swordcane, billy, knuckles made of any metal or hard substance, knife having a blade four inches long or longer, razor, not including a safety razor not capable of being used as an ordinary razor, or other deadly weapon, shall be punished by imprisonment in the county jail for a term not less than six months nor more than one year, or by a fine not less than twenty-five dollars nor more than three hundred dollars, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 74, L. 1919.

Note.—For earlier acts see section 1,

chapter 35, Laws of 1903; re-enacted as section 8583, Revised Codes 1907.

11304. Same—Who excepted from act. The preceding sections shall not apply to:

1. A sheriff or his deputy;
2. A marshal or his deputy;
3. A constable or his deputy;
4. A police officer or policeman;
5. A United States marshal or his deputy;
6. A person in the secret service of the United States;
7. A game warden or his deputy;
8. A U. S. forest reserve official or his deputy;
9. A person in actual service as a national guardsman;
10. A revenue officer or his deputy;
11. A person summoned to the aid of either of the foregoing named persons;

12. A civil officer or his deputy engaged in the discharge of official business;

13. A person authorized by a judge of a district court of this state to carry a weapon;

14. The carrying of arms on one's own premises or at his home or place of business;

15. Any peace officer of the state of Montana.

History: En. Sec. 3, Ch. 74, L. 1919.

11305. Arrest without warrant—Duty of peace officers. Any person violating any of the provisions of sections 11302 or 11303 of this code may

be arrested without warrant by any peace officer and lodged in a town, city, or county jail; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not less than twenty-five dollars nor more than five hundred dollars.

History: En. Sec. 4, Ch. 74, L. 1919.

11306. District judge may issue permits to carry concealed weapons.

Any judge of a district court of this state may grant permission to carry or bear concealed or otherwise a pistol or revolver for a term not exceeding one year. All applications for such permission must be made by petition filed with the clerk of the district court, for the filing of which petition no charge shall be made. The applicant shall, if personally unknown to the judge, furnish proof by a credible witness of his good moral character and peaceable disposition. No such permission shall be granted any person who is not a citizen of the United States and who has not been an actual bona fide resident of the state of Montana for six months immediately next preceding the date of such application. A record of permission granted shall be kept by the clerk of the court, which record shall state the date of the application, the date of the permission, the name of the person to whom permission is granted, the name of the judge granting the permission, the name of the person, if any, by whom good moral character and peaceable disposition are proved, and which record must be signed by person who is granted such permission. The clerk shall thereupon issue under his hand and the seal of the court a certificate, in a convenient card form so that the same may be carried in the pocket, stating:

"Permission toauthorizing him to carry or bear concealed or otherwise a pistol or revolver for the period of..... from the date hereof, has been granted by, a judge of the district court of the judicial district of the state of Montana, in and for the county of"

"Witness the hand of the clerk and the seal of said court this..... day of, 19.....

.....

Clerk."

The date of the certificate shall be the date of the granting of such permission. The certificate shall bear upon its face the signature of the person receiving the same. Upon good cause shown the judge granting such permission may, and in his discretion without notice to the person receiving such permission, revoke the same, the date of the revocation being noted by the clerk upon the record kept by him.

All permissions to carry or bear concealed weapons heretofore granted are hereby revoked.

History: En. Sec. 5, Ch. 74, L. 1919.

11307. Definition of concealed weapons. Concealed weapons shall mean any weapon mentioned in the foregoing sections, which shall be wholly or partially covered by the clothing or wearing apparel of the person so carrying or bearing the weapon.

History: En. Sec. 6, Ch. 74, L. 1919.

11308. Definition of unincorporated town. A town, if unincorporated, within the meaning of this act, shall consist of at least ten dwellings situated so that no one of said buildings is distant from another more than one hundred yards.

History: En. Sec. 7, Ch. 74, L. 1919.

11309. Jurisdiction of courts. The district courts shall have original jurisdiction in all criminal actions for violations of the provisions of this act.

History: En. Sec. 8, Ch. 74, L. 1919.

11310. Selling or dealing in toy pistols and similar appliances a misdemeanor. Any person who shall sell, trade, exchange, or give away, or offer to sell, trade, exchange, or give away, or who shall have the possession of, what is known as toy pistols, toy cannons, cap pistols, explosive canes, or other devices or appliances for the use of blank cartridges or caps containing chlorate of potash mixture or other explosive substance; or any blank cartridge, paper caps, or other explosive substance prepared for, used in, or intended for use in toy pistols, cap pistols, explosive canes, or other such appliances, shall be guilty of a misdemeanor.

History: En. Sec. 1, Ch. 70, L. 1911.

11311. Same—Public nuisance—Duty of officers. Toy pistols, toy cannons, cap pistols, explosive canes, and all such devices and appliances designated in the preceding section are hereby declared to be a public nuisance, and it shall be the duty of every officer authorized to make arrests, to seize every such toy pistol, article, and device, and bring the same before a committing magistrate.

History: En. Sec. 2, Ch. 70, L. 1911.

11312. Same—Magistrate to destroy. The magistrate before whom such toy pistol, article, or device is brought must cause the public destruction of the same, and no person owning or claiming to own any such toy pistol, article, or device shall have any right of action against any person or against the state, county, or city for the value of such article or for damages for the destruction thereof.

History: En. Sec. 3, Ch. 70, L. 1911.

11313. Duty of mayor. It shall be the duty of every mayor of every town or city in the state, to cause this act to be diligently enforced, and to cause the police officers of his city or town to arrest and make complaint against any and all persons offending against any of the provisions of this act.

History: En. Sec. 4, Ch. 70, L. 1911.

11314. Prohibiting the carrying of firearms by Indians while off reservation. Any Indian who while off, or away from, any Indian reservation carries or bears, or causes to be carried or borne by any member of any party with which he may travel or stop, any pistol, revolver, rifle, or other

firearm, or any ammunition for any firearm, shall be guilty of a misdemeanor. And such arms shall be seized, confiscated, and sold by the officer making the arrest, and the proceeds from such sale shall be disposed of as follows: When seized and sold by an officer of the stock association the proceeds shall be sent to the state treasurer and by him placed to the credit of the stock inspector and detective fund; when seized and sold by a game warden the proceeds shall be placed to the credit of the fish and game fund; and when seized and sold by any other peace officer the proceeds shall be turned over to the county treasurer and placed to the credit of the general fund in which county the arrest and seizure is made.

History: En. Sec. 1, Ch. 84, L. 1903; re-en. Sec. 8590, Rev. C. 1907.

11315. Bringing armed men into the state. Every person who brings into this state an armed person or armed body of men for the preservation of the peace or the suppression of domestic violence, except at the solicitation and by the permission of the legislative assembly or of the governor, is punishable by imprisonment in the state prison not exceeding ten years and by a fine not exceeding ten thousand dollars.

History: En. Sec. 759, Pen. C. 1895; re-en. Sec. 8591, Rev. C. 1907.

11316. Disturbance of railway trains—Punishment. Any person or persons who shall, upon any railway train or any car used for the conveyance of passengers, disturb the peace and quiet of any of the passengers upon any such railway train or car by loud and tumultuous noises or by offensive conduct, or by using profane, vulgar, or obscene language, or who shall commit an assault upon the person of another, shall, upon conviction thereof, be fined in a sum not less than twenty-five nor more than three hundred dollars, or by imprisonment in the county jail for not less than ten nor more than ninety days.

History: En. Sec. 1, Ch. 144, L. 1917.

11317. Police power of railroad conductors. Police power is conferred hereby upon every conductor of a railroad company while engaged in operating any passenger train or car lines of railway in the state of Montana, and it shall be the duty of every conductor, while upon duty upon any train or car used for the conveyance of passengers, to arrest any person who shall, in his presence or to his knowledge, be guilty of a disturbance of the peace of other passengers upon such train or car, or who shall commit any assault upon another or who uses profane, obscene, or vulgar language in the presence of women and children, or who conducts himself in a riotous or boisterous manner, and to deliver him or them to a policeman, constable, or other peace officer at any station where such officer may be found, and it shall be the duty of such officer to make complaint against such person, and a complaint made upon information and belief of such officer shall be sufficient.

History: En. Sec. 2, Ch. 144, L. 1917.

CHAPTER 39.

EMBEZZLEMENT AND OTHER OFFENSES BY PUBLIC OFFICERS.

- Section** 11318. Embezzlement by Public Officer.
 11319. Officers Neglecting to Pay Over Public Moneys.
 11320. "Public Moneys" as Used in the Preceding Section Defined.
 11321. Failure to Pay Over Fines and Forfeitures Received a Misdemeanor.
 11322. Obstructing Officer in Collecting Revenue.
 11323. Refusing to Give Assessor List of Property, or Giving False Name.
 11324. Making False Statement, Not Under Oath, in Reference to Taxes.
 11325. Delivering Receipts for Polltaxes Other Than Prescribed by Law, or Collecting Polltaxes, etc., Without Giving the Receipt Prescribed by Law.
 11326. Having Blank Receipts for Licenses Other Than Those Prescribed by Law.
 11327. Refusing to Give Name of Person in Employment, etc.
 11328. Carrying on Business Without License.
 11329. Unlawfully Acting as Auctioneer.
 11330. Officer Charged With Collection, etc., of Revenue, Refusing to Permit Inspection of His Books.
 11331. Board of Examiners, Auditor, and Treasurer Neglecting Certain Duties.
 11332. Having State Arms, etc.
 11333. Selling State Arms, etc.
 11334. Sheriff Falsely Representing Accounts.
 11335. Trespass on Public Property.
 11336. Limitations on Preceding Section.

11318. Embezzlement by public officer. Every officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safe keeping, transfer or disbursement of public moneys, who either—

1. Without authority of law, appropriates the same, or any portion thereof, to his own use, or to the use of another; or
 2. Loans the same, or any portion thereof, except by deposits in the manner authorized by law, or having the possession or control of any public money, makes profit out of it, or uses the same for any purpose not authorized by law; or
 3. Fails to keep the same in his possession or under his control until disbursed or paid out by authority of law; or
 4. Unlawfully deposits the same, or any portion thereof, in any bank, or with any banks or other person; or
 5. Knowingly keeps any false account, or makes any false entry or erasure in any account of or relating to the same; or
 6. Fraudulently alters, falsifies, conceals, destroys, or obliterates any such account; or
 7. Wilfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order, or warrant drawn upon such moneys by a competent authority; or
 8. Wilfully omits to transfer the same when such transfer is required by law; or
 9. Wilfully omits or refuses to pay over to any officer or person authorized by law to receive the same, any moneys received by him under any duty imposed by law which compels him to pay over the same;
- is punishable by imprisonment in the state prison not less than one nor

more than ten years, and is disqualified from holding any office in this state.

History: Ap. p. Sec. 770, Pen. C. 1895; en. Sec. 1, Ch. 153, L. 1907; Sec. 8592, Rev. C. 1907. Cal. Pen. C. Secs. 424, 503, 504.

Trust & Savings Bank, 46 Mont. 439, 449, 128 Pac. 596.

It is a felony for a county treasurer to keep county moneys on a general deposit in a bank without the security required by section 4767. *Yellowstone Co. v. First*

For text treatment of "Embezzlement," see Cal. Jur. and 9 E. C. L. 1262.

What constitutes embezzlement and who may commit offense, see notes in 98 Am. Dec. 126; 87 A. S. R. 19.

11319. Officers neglecting to pay over public moneys. Every officer charged with the receipt, safekeeping, or disbursement of any public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of felony.

Related section: 4907.

History: En. Sec. 771, Pen. C. 1895; re-en. Sec. 8593, Rev. C. 1907. Cal. Pen. C. Sec. 425.

Cited or applied as section 771, Penal Code, in *Raban v. Cascade Bank*, 33 Mont. 413, 416, 84 Pac. 72.

11320. "Public moneys" as used in the preceding section defined. The phrase "public moneys," as used in this code, includes all bonds and evidences of indebtedness, and all moneys belonging to the state, or any city, county, town, or district therein, and all moneys, bonds, and evidences of indebtedness received or held by state, county, city, or town officers in their official capacity.

History: En. Sec. 772, Pen. C. 1895; re-en. Sec. 8594, Rev. C. 1907. Cal. Pen. C. Sec. 426.

11321. Failure to pay over fines and forfeitures received a misdemeanor. If any clerk, justice of the peace, sheriff, or constable, who receives any fine or forfeiture, refuses or neglects to pay over the same according to law, and within thirty days after the receipt thereof, is guilty of a misdemeanor.

Related sections: 12347, 12433.

re-en. Sec. 8595, Rev. C. 1907. Cal. Pen.

History: En. Sec. 773, Pen. C. 1895; C. Sec. 427.

11322. Obstructing officer in collecting revenue. Every person who wilfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which this state is interested, and which such officer is by law empowered to collect, or who obstructs or hinders any public officer in the discharge of his duty, is guilty of a misdemeanor.

History: En. Sec. 774, Pen. C. 1895; re-en. Sec. 8596, Rev. C. 1907. Cal. Pen. C. Sec. 428.

11323. Refusing to give assessor list of property, or giving false name. Every person who unlawfully refuses, upon demand, to give to any county assessor a list of his property subject to taxation, or to swear to such list, or who gives a false name or fraudulently refuses to give his true name to any assessor, when demanded by such assessor, in the discharge of his official duties, is guilty of a misdemeanor.

History: En. Sec. 775, Pen. C. 1895; re-en. Sec. 8597, Rev. C. 1907. Cal. Pen. C. Sec. 429.

11324. Making false statement, not under oath, in reference to taxes. Every person who, in making any statement, not upon oath, oral or written,

which is required or authorized by law to be made, as the basis of imposing any tax or assessment or of an application to reduce any tax or assessment, wilfully states anything which he knows to be false, is guilty of a misdemeanor.

History: En. Sec. 776, Pen. C. 1895; re-en. Sec. 8598, Rev. C. 1907. Cal. Pen. C. Sec. 430.

11325. Delivering receipts for polltaxes other than prescribed by law, or collecting polltaxes, etc., without giving the receipt prescribed by law. Every person who uses or gives any receipt, except that prescribed by law, as evidence of the payment of any polltax, road tax, or license of any kind, or who receives payment of such tax or license without delivering the receipt prescribed by law, or who inserts the name of more than one person therein, is guilty of a misdemeanor.

History: En. Sec. 777, Pen. C. 1895; re-en. Sec. 8599, Rev. C. 1907. Cal. Pen. C. Sec. 431.

11326. Having blank receipts for licenses other than those prescribed by law. Every person who has in his possession, with intent to circulate or sell, any blank licenses or polltax receipts other than those furnished by the officer authorized by law, is guilty of a felony.

History: En. Sec. 778, Pen. C. 1895; re-en. Sec. 8600, Rev. C. 1907. Cal. Pen. C. Sec. 432.

11327. Refusing to give name of person in employment, etc. Every person who, when requested by the collector of taxes or licenses, refuses to give to such collector the name and residence of each man in his employment, or to give such collector access to the building or place where such men are employed, is guilty of a misdemeanor.

History: En. Sec. 779, Pen. C. 1895; re-en. Sec. 8601, Rev. C. 1907. Cal. Pen. C. Sec. 434.

11328. Carrying on business without license. Every person who commences or carries on any business, trade, profession, or calling, for the transaction or carrying on of which a license is required by any law of this state, without taking out or procuring a license prescribed by such law, is guilty of a misdemeanor.

Related section: 2443.

re-en. Sec. 8602, Rev. C. 1907. Cal. Pen.

History: En. Sec. 780, Pen. C. 1895; C. Sec. 435.

11329. Unlawfully acting as auctioneer. Every person who acts as an auctioneer in violation of the laws of this state relating to auctions and auctioneers, is guilty of a misdemeanor.

History: En. Sec. 781, Pen. C. 1895; re-en. Sec. 8603, Rev. C. 1907. Cal. Pen. C. Sec. 436.

11330. Officer charged with collection, etc., of revenue, refusing to permit inspection of his books. Every person charged with the collection, receipt, or disbursement of any portion of the revenue of this state, who, upon demand, fails or refuses to permit the state examiner, state auditor, or attorney-general to inspect his books, papers, receipts, and records pertaining to his office, is guilty of a misdemeanor.

History: En. Sec. 782, Pen. C. 1895; re-en. Sec. 8604, Rev. C. 1907. Cal. Pen. C. Sec. 440.

11331. Board of examiners, auditor, and treasurer neglecting certain duties. Every member of the board of examiners, and every state auditor, or state treasurer who violates any of the provisions of the laws of this state relating to the board of examiners, or prescribing its powers and duties, is guilty of a felony.

History: En. Sec. 783, Pen. C. 1895; re-en. Sec. 8605, Rev. C. 1907. Cal. Pen. C. Sec. 441.

11332. Having state arms, etc. Every person who unlawfully retains in his possession any arms, equipments, clothing, or military stores belonging to the state, or the property of any company of the state militia, is guilty of a misdemeanor.

History: En. Sec. 784, Pen. C. 1895; re-en. Sec. 8606, Rev. C. 1907.

11333. Selling state arms, etc. Every member of the state militia who unlawfully disposes of any arms, equipments, clothing, or military stores, the property of this state, or of any company of the state militia, is guilty of a misdemeanor.

History: En. Sec. 785, Pen. C. 1895; re-en. Sec. 8607, Rev. C. 1907.

11334. Sheriff falsely representing accounts. Every person who violates any of the provisions of sections 4909 and 4910 of these codes, relating to sheriff, is guilty of a felony.

History: En. Sec. 786, Pen. C. 1895; re-en. Sec. 8608, Rev. C. 1907.

11335. Trespass on public property. If any person shall wilfully injure or trespass or commit waste upon any premises, or shall damage, deface, or destroy any house, improvement, or other like property, such premises, house, improvement, or property being then and there the property of this state, the person or persons so offending shall be deemed guilty of a misdemeanor if the damage does not exceed fifty dollars; and of a felony if such damages exceeds fifty dollars. If convicted of a misdemeanor, in this section defined, the defendant shall be punished by a fine of not less than fifty dollars, or by imprisonment in the county jail not more than sixty days, or by both such fine and imprisonment. If convicted of the felony herein defined, the person so convicted shall be punished by imprisonment at hard labor in the penitentiary not less than six months nor more than ten years, and in addition to penalties before mentioned the party convicted shall be liable to the state in the sum of three times the value of the property taken, the damage done or the property destroyed, to be recovered in a civil action.

History: En. Sec. 1, p. 45, L. 1893; re-en. Sec. 787, Pen. C. 1895; re-en. Sec. 8609, Rev. C. 1907.

11336. Limitations on preceding section. The foregoing section shall not apply to unenclosed granted lands to the state, which are not occupied and have no improvements or enclosures thereon so far as mere trespass, not malicious, is concerned, but shall apply to any waste or destruction thereon, or to the cutting or removing of timber therefrom, or the destruction of the same. All fines collected and all moneys recovered by virtue of this section must be paid into the school fund of the state.

History: En. Sec. 788, Pen. C. 1895, re-en. Sec. 8610, Rev. C. 1907.

CHAPTER 40.

ARSON.

Section 11337. Arson Defined.

11338. Building Defined.

11339. Inhabited Building Defined.

11340. Night-time Defined.

11341. Burning Defined.

11342. Ownership of the Building.

11343. Degrees of Arson.

11344. Arson of the First Degree—Arson of the Second Degree.

11345. Punishment of Arson.

11337. Arson defined. Arson is the wilful and malicious burning of a building with intent to destroy it.

Related sections: 11426, 11476.

History: En. Sec. 800, Pen. C. 1895; Statutes 1871; sections 64 to 68, Fourth Division Revised Statutes 1879; sections re-en. Sec. 8611, Rev. C. 1907. Cal. Pen. C. Sec. 447. 68 to 72, Fourth Division Compiled Statutes 1887.

Note.—For earlier acts relating to arson see sections 55 to 57, p. 187, Bannack Statutes; sections 64 to 68, p. 280, Codified

For text treatment of "Arson," see 3 Cal. Jur. 160 and 2 R. C. L. 495.

11338. Building defined. Any house, edifice, structure, vessel, railroad car, tent, camp-wagon, sheep-wagon, or other erection capable of affording shelter, or appurtenant to or connected with an erection so adapted; any house, edifice, or structure erected or in course of erection, used, intended to be or usually used for hotel, restaurant, lodging-house, bunkhouse, manufacturing, agricultural, stock-raising, or housing, storage, merchandising, commercial, mining, smelting, refining, mining, milling, religious, educational, scientific, library, charitable, transportation, industrial, or commercial purposes, any public building, house, edifice, or structure owned, used, or occupied by the government of the United States, or the state of Montana, or by any county, city, school district, or any municipality within the state of Montana, any house, building, edifice, or structure owned or used by any railroad corporation or other common carrier, or by any public utility corporation or company, any steam or other power boat or vessel of the value of fifty dollars or more, is a building within the meaning of this chapter.

History: En. Sec. 801, Pen. C. 1895; 8612, Rev. C. 1907; amd. Sec. 1, Ch. 3, Ex. amd. Sec. 1, Ch. 22, L. 1903; re-en. Sec. L. 1918. Cal. Pen. C. Sec. 448.

11339. Inhabited building defined. Any building which has usually been occupied by any person lodging therein at night is an inhabited building within the meaning of this chapter.

History: En. Sec. 802, Pen. C. 1895; re-en. Sec. 8613, Rev. C. 1907. Cal. Pen. C. Sec. 449.

11340. Night-time defined. The phrase "night-time," as used in this chapter, means the period between sunset and sunrise.

History: En. Sec. 803, Pen. C. 1895; re-en. Sec. 8614, Rev. C. 1907. Cal. Pen. C. Sec. 450.

11341. Burning defined. To constitute a burning within the meaning of this chapter it is not necessary that the building set on fire should have

been destroyed. It is sufficient that fire is applied so as to take effect upon any part of the substance of the building.

History: En. Sec. 804, Pen. C. 1895; re-en. Sec. 8615, Rev. C. 1907. Cal. Pen. C. Sec. 451.

11342. Ownership of the building. To constitute arson it is not necessary that a person other than the accused should have had ownership in the building set on fire. It is sufficient that at the time of the burning another person was rightfully in possession of or was actually occupying such building or any part thereof.

History: En. Sec. 805, Pen. C. 1895; re-en. Sec. 8616, Rev. C. 1907. Cal. Pen. C. Sec. 452.

11343. Degrees of arson. Arson is divided into two degrees.

History: En. Sec. 806, Pen. C. 1895; re-en. Sec. 8617, Rev. C. 1907. Cal. Pen. C. Sec. 453.

11344. Arson of the first degree—Arson of the second degree. Maliciously burning in the night-time an inhabited building in which there is at the time some human being is arson in the first degree. All other kinds are arson of the second degree.

History: En. Sec. 807, Pen. C. 1895; re-en. Sec. 8618, Rev. C. 1907. Cal. Pen. C. Sec. 454.

11345. Punishment of arson. Arson is punishable by imprisonment in the state prison as follows:

1. Arson in the first degree, for not less than five years.

2. Arson in the second degree, for not less than one nor more than ten years.

History: En. Sec. 808, Pen. C. 1895; re-en. Sec. 8619, Rev. C. 1907. Cal. Pen. C. Sec. 455.

CHAPTER 41.

BURGLARY AND HOUSEBREAKING—POSSESSION OF BURGLARIOUS INSTRUMENTS AND DEADLY WEAPONS.

Section 11346. Burglary Defined.

11347. Degrees of Burglary.

11348. Penalty.

11349. Word "Enter" Defined.

11350. Night-time Defined.

11351. Burglary With Explosives.

11352. Penalty.

11353. Possession of Burglarious Instruments.

11354. Carrying Deadly Weapons With Intent to Assault—Penalty.

11346. Burglary defined. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, railroad car, with intent to commit grand or petit larceny or any felony, is guilty of burglary.

History: Ap. p. Sec. 58, p. 188, Bank Stat.; re-en. Sec. 69, p. 281, Cod. Stat. 1871; re-en. Sec. 69, 4th Div. Rev. Stat. 1879; amd. Sec. 1, p. 50, L. 1885; re-en. Sec. 73, 4th Div. Comp. Stat. 1887; amd. Sec. 820, Pen. C. 1895; re-en. Sec. 8620, Rev. C. 1907. Cal. Pen. C. Sec. 459.

The entry of a building with the intent to commit a larceny or some felony is all that by the statute is made essential to the crime of burglary. The gravamen of the charge is the entry with this criminal intent. *State v. Rogers*, 31 Mont. 1, 3, 77 Pac. 293.

In an information charging burglary, the time during the twenty-four hours of the day at which the entry into any of the structures enumerated in this section was made need not be alleged, inasmuch as the degree of the offense, whether committed in the day or night-time, is to be determined by the jury under proper instructions. *State v. Copenhaver*, 35 Mont. 342, 344, 89 Pac. 61; *State v. Mish*, 36 Mont. 168, 175, 92 Pac. 459, 122 Am. St. Rep. 343.

Where the defendant was specifically charged with burglary in the night-time, constituting the first degree of the offense of burglary, the jury could not convict him of the crime in its second degree, as having been committed in the daytime. *State v. Copenhaver*, 35 Mont. 342, 344, 89 Pac. 61.

Under this section the act of entry, to constitute a crime, must be itself a trespass, and the information should therefore negative the idea that the defendant, at the time of entry, had the right to enter. *State v. Mish*, 36 Mont. 168, 170, 92 Pac. 459, 122 Am. St. Rep. 343. See *State v. Rodgers*, 40 Mont. 243, 251, 106 Pac. 3.

While the ownership of the room or building, charged in an information for burglary to have been entered by defendant, need not be specifically alleged, it is the safer practice to do so, if known to the pleader. *State v. Mish*, 36 Mont. 168, 173, 92 Pac. 459, 122 Am. St. Rep. 343. See *State v. Rodgers*, 40 Mont. 248, 251, 106 Pac. 3.

Since it is burglary under this section to enter a house or room with intent to commit petit as well as grand larceny, it is unnecessary to allege the value of the articles sought to be stolen in an information charging an attempt to enter a certain room in a lodging-house with intent to commit larceny. *State v. Mish*, 36 Mont. 168, 174, 92 Pac. 459, 122 Am. St. Rep. 343. See *State v. Rodgers*, 40 Mont. 248, 251, 106 Pac. 3.

Cited or applied as section 73, Fourth Division, Compiled Statutes 1887, in *Territory v. Willard*, 8 Mont. 328, 331, 21 Pac. 301.

For text treatment of "Burglary," see 4 Cal. Jur. 715 and 4 R. C. L. 414.

11347. Degrees of burglary. Every burglary committed in the night-time is burglary in the first degree, and every burglary committed in the daytime is burglary in the second degree.

History: En. Sec. 1, p. 50, L. 1885; amd. Sec. 821, Pen. C. 1895; re-en. Sec. amd. Sec. 74, 4th Div. Comp. Stat. 1887; 8621, Rev. C. 1907. Cal. Pen. C. Sec. 460.

11348. Penalty. Burglary in the first degree is punishable by imprisonment in the state prison for not less than one nor more than fifteen years. Burglary in the second degree is punishable by imprisonment in the state prison for not more than five years.

History: En. Sec. 2, p. 50, L. 1885; amd. Sec. 822, Pen. C. 1895; re-en. Sec. re-en. Sec. 75, 4th Div. Comp. Stat. 1887; 8622, Rev. C. 1907. Cal. Pen. C. Sec. 461.

11349. Word "enter" defined. The word "enter," as used in this chapter, includes the entrance of the offender into such house, room, apartment, tenement, shop, warehouse, stable, outhouse, or other building, tent, vessel, or railroad car, or the insertion therein of any part of his body, or of any instrument or weapon held in his hand, or used or intended to be used, to threaten or intimidate the inmates, or to detach or remove the property.

History: En. Sec. 823, Pen. C. 1895; re-en. Sec. 8623, Rev. C. 1907.

11350. Night-time defined. The phrase "night-time," as used in this chapter, means the period between sunset and sunrise.

History: En. Sec. 2, p. 50, L. 1885; re-en. Sec. 74, 4th Div. Comp. Stat. 1887; re-en. Sec. 824, Pen. C. 1895; re-en. Sec. 8624, Rev. C. 1907. Cal. Pen. C. Sec. 463. Cited or applied as section 824, Penal Code, in *State v. Copenhaver*, 35 Mont. 342, 343, 89 Pac. 61.

11351. Burglary with explosives. Any person who enters a building belonging to another with intent to commit a felony or other crime by the use of nitroglycerine, dynamite, gunpowder, or other high explosives,

or who commits a burglary by the use of any such explosives, is guilty of burglary with explosives.

History: En. Sec. 1, Ch. 107, L. 1907; Sec. 8625, Rev. C. 1907.

11352. Penalty. Burglary with explosives is punishable by imprisonment in state prison for not less than fifteen years, and not more than forty years.

History: En. Sec. 2, Ch. 107, L. 1907; Sec. 8626, Rev. C. 1907.

11353. Possession of burglarious instruments. Every person having upon him or in his possession a picklock, crow, key, bit, or other instrument or tool with intent feloniously to break or enter into any building, or who shall knowingly make or alter or shall attempt to make or alter any key or other instrument above named so that the same will fit or open the lock of a building without being requested so to do by some person having the right to open the same, or who shall make, alter, or repair any instrument or thing, knowing or having reason to believe that it is intended to be used in committing a misdemeanor or felony, is guilty of a misdemeanor. Any of the structures mentioned in section 11346 of these codes shall be deemed to be a building within the meaning of this section.

History: Ap. p. Sec. 132, p. 210, Bank Stat.; re-en. Sec. 149, p. 304, Cod. Stat. 1887; en. Sec. 830, Pen. C. 1895; re-en. Sec. 8627, Rev. C. 1907. Cal. Pen. C. Sec. 466. Stat. 1871; re-en. Sec. 149, 4th Div. Rev. Stat. 1879; re-en. Sec. 174, 4th Div. Comp.

11354. Carrying deadly weapon with intent to assault—Penalty. Every person having upon him a deadly weapon with intent to assault another is guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state prison for a term of not less than one year nor more than five years.

History: En. Sec. 831, Pen. C. 1895; re-en. Sec. 8628, Rev. C. 1907; amd. Sec. 1, Ch. 79, L. 1919. Cal. Pen. C. Sec. 467.

CHAPTER 42.

FORGERY AND COUNTERFEITING.

- Section 11355.** Forgery of Wills, Conveyances, etc.
11356. Making False Entries in Records or Returns.
11357. Forgery of Public or Corporate Seal.
11358. Punishment of Forgery.
11359. Forging Telegraphic Messages.
11360. Passing or Receiving Forged Notes.
11361. Making, Passing, or Uttering Fictitious Bills, etc.
11362. Counterfeiting Coin, Bullion, etc.
11363. Punishment of Counterfeiting.
11364. Possessing or Receiving Counterfeit Coin, Bullion, etc.
11365. Making or Possessing Counterfeit Dies or Plates.
11366. Counterfeiting Railroad Tickets, etc.
11367. Restoring Canceled Tickets.

11355. Forgery of wills, conveyances, etc. Every person who, with intent to defraud another, falsely makes, alters, forges, or counterfeits any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, annuity, covenant, bankbill or note, postnote, check, draft, bill of exchange, contract, promissory-note, duebill for the payment

of money, receipt for money or property, passage-ticket, power-of-attorney, or any certificate of any share, right, or interest in the stock of any corporation or association, or any auditor's warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money or the delivery of goods or chattels of any kind, or for the delivery of any instrument in writing or acquittance, release or receipt for money or goods, or any acquittance, release, or discharge for any debt, account, suit, action, demand, or other thing, real or personal, or any transfer or assurance of money, certificates of shares of stock, goods, chattels, or other property whatever, or any letter-of-attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien or convey any goods, chattels, lands or tenements, or other estate, real or personal, or any acceptance or indorsement of any bill of exchange, promissory-note, draft, order, or assignment of any bond, writing obligatory, or promissory-note for money or other property, or counterfeits or forges the seal or handwriting of another on any official certificate, or utters, publishes, or passes or attempts to pass as true and genuine any of the above-named false, altered, forged, or counterfeited matters as above specified and described, knowing the same to be false, altered, forged, or counterfeited, with intent to prejudice, damage, or defraud any person, or who, with intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of any court, or the return of any officer to any process of any court, is guilty of forgery.

Related sections: 11369, 11410, 11983.

History: Ap. p. Sec. 76, p. 194, *Banck Stat.*; re-en. Sec. 88, p. 287, *Cod. Stat.* 1871; re-en. Sec. 88, 4th Div. *Rev. Stat.* 1879; re-en. Sec. 96, 4th Div. *Comp. Stat.* 1887; en. Sec. 840, *Pen. C.* 1895; re-en. Sec. 8629, *Rev. C.* 1907. *Cal. Pen. C. Sec.* 470.

To constitute forgery, the instrument, alleged to have been forged, must be one which, if genuine, would have legal validity; hence, if an instrument, though falsely made, shows upon its face that it has no legal validity, it cannot be made the basis of a charge of forgery. *State v. Evans*, 15 Mont. 539, 541, 39 Pac. 850, 48 Am. St. Rep. 701, 28 L. R. A. 127; *In re Farrell*, 36 Mont. 254, 260, 92 Pac. 785. See, also, *County of Silver Bow v. Davies*, 40 Mont. 418, 425, 107 Pac. 81, and *American Bonding Co. v. State Sav. Bank*, 47 Mont. 332, 337, 133 Pac. 367, 46 L. R. A. (N. S.) 557.

A city warrant, regular on its face, and apparently drawn according to law on the city treasurer, signed by the mayor and countersigned by the city clerk, for the payment of moneys out of a specific fund, is a draft, and is therefore the subject of forgery under a statute making it a forgery to "falsely make, alter, forge, or counterfeit any writing obligatory, draft," etc. *State v. Brett*, 16 Mont. 360, 369, 40 Pac. 873.

An information charging the forgery of an indorsement of a certificate of deposit, which was set out in full in the information and contained the words "H. D. & Co., Bankers" at the top and above the date, and was signed "H. D. & Co.," and was made payable to the order of the depositor, is sufficient, although no bank is referred to in the information, and there is no allegation therein of extrinsic facts to show that "H. D. & Co." had any bank in which money was deposited. *State v. Patch*, 21 Mont. 534, 536, 55 Pac. 108.

A juror's certificate, which did not bear the seal required by the statute, did not constitute a legal liability against the county, and, being void on its face, a charge of forgery could not be predicated upon it. *In re Farrell*, 36 Mont. 254, 266, 92 Pac. 785. See, also, *County of Silver Bow v. Davies*, 40 Mont. 418, 425, 107 Pac. 81, and *American Bonding Co. v. State Sav. Bank*, 47 Mont. 332, 337, 133 Pac. 367, 46 L. R. A. (N. S.) 557. Compare *Choate v. Spencer*, 13 Mont. 127, 132, 32 Pac. 651, 40 Am. St. Rep. 425, 20 L. R. A. 424; *Sharman v. Huot*, 20 Mont. 555, 557, 52 Pac. 558, 63 Am. St. Rep. 645; *Kipp v. Burton*, 29 Mont. 96, 103, 74 Pac. 85, 101 Am. St. Rep. 544, 63 L. R. A. 325.

It is necessary that the information shall set forth the particulars in which the

instrument is alleged to have been altered, in order that the trial court may say, as a matter of law, whether the alteration is of such a character as to constitute the crime of forgery. *State v. Mitten*, 36 Mont. 376, 382, 92 Pac. 969.

One charged with forgery in fraudulently making an instrument cannot be proved guilty by showing that he altered the same. *State v. Mitten*, 36 Mont. 376, 383, 92 Pac. 969.

To justify a conviction of one charged with uttering a note while knowing it to be forged, it is not necessary to show that the forgery in the first instance was committed by the defendant. If, knowing that the instrument was in fact a forgery, he passed it as true and genuine with a felonious intent, he is guilty of forgery. *State v. Mitten*, 37 Mont. 366, 372, 96 Pac.

926, 127 Am. St. Rep. 732. See *First National Bank v. Barrett*, 52 Mont. 359, 365, 157 Pac. 951.

The changing of an order for school supplies by detaching a portion thereof so as to create, out of what was not intended as a promissory note, a negotiable instrument, is such a material alteration of the original instrument as to constitute a forgery, if done with a criminal intent. *State v. Mitten*, 37 Mont. 366, 376, 96 Pac. 926, 127 Am. St. Rep. 732. See *First National Bank v. Barrett*, 52 Mont. 359, 365, 157 Pac. 951.

Cited or applied as section 840, Penal Code, in *State v. Newman*, 34 Mont. 434, 436, 87 Pac. 462.

For text treatment of "Forgery," see Cal. Jur. and 12 R. C. L. 138.

11356. Making false entries in records or returns. Every person who, with intent to defraud another, makes, forges, or alters any entry in any book of records, or any instrument purporting to be any record or return specified in the preceding section, is guilty of forgery.

History: En. Sec. 841, Pen. C. 1895; re-en. Sec. 8630, Rev. C. 1907. Cal. Pen. C. Sec. 471.

11357. Forgery of public or corporate seal. Every person who, with intent to defraud another, forges or counterfeits the seal of this state, the seal of any public officer authorized by law, the seal of any court of record, or the seal of any corporation, or any other public seal authorized or recognized by the laws of this state, or any other state, government, or country, or who falsely makes, forges, or counterfeits any impression purporting to be an impression of any such seal, or who has in possession any such counterfeited seal, or impression thereof, knowing it to be counterfeited, and wilfully conceals the same, is guilty of forgery.

History: Ap. p. Sec. 86, p. 197, Ban- 1879; re-en Sec. 106, 4th Div. Comp. Stat. nack Stat.; re-en. Sec. 98, p. 290, Cod. Stat. 1887; en. Sec. 842, Pen. C. 1895; re-en. Sec. 1871; re-en. Sec. 98, 4th Div. Rev. Stat. 8631, Rev. C. 1907. Cal. Pen. C. Sec. 472.

11358. Punishment of forgery. Forgery is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

History: En. Sec. 843, Pen. C. 1895; re-en. Sec. 8632, Rev. C. 1907. Cal. Pen. C. Sec. 473.

11359. Forging telegraphic messages. Every person who knowingly and wilfully sends by telegraph to any person a false or forged message, purporting to be from such telegraph office, or from any other person, or who wilfully delivers or causes to be delivered to any person any such message, falsely purporting to have been received by telegraph, or who furnishes or conspires to furnish, or causes to be furnished to any agent, operator, or employee, to be sent by telegraph or to be delivered, any such message, knowing the same to be forged or false, with intent to deceive, injure, or defraud another, is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not exceeding one

year, or by fine not exceeding five thousand dollars, or by both fine and imprisonment.

History: En. Sec. 844, Pen. C. 1895; re-en. Sec. 8633, Rev. C. 1907. Cal. Pen. C. Sec. 474.

11360. Passing or receiving forged notes. Every person who has in his possession, or receives from another person, any forged promissory-note, or bankbill, or bills for the payment of money or property, with the intention to pass the same, or to permit, cause, or procure the same to be uttered or passed with the intention to defraud any person, knowing the same to be forged or counterfeited, or has or keeps in his possession any blank or unfinished note or bankbill made in the form or similitude of any promissory-note or bill for payment of money or property, made to be issued by any incorporated bank or banking company, with intention to fill up or complete such blank and unfinished note or bill, or to permit or cause or procure the same to be filled up and completed, in order to utter or pass the same, or to permit or cause or procure the same to be passed, or to defraud any person, is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

History: Ap. p. Sec. 81, p. 195, Bank Stat.; re-en. Sec. 93, p. 289, Cod. Stat. 1879; re-en. Sec. 101, 4th Div. Comp. Stat. 1887; en. Sec. 845, Pen. C. 1895; re-en. Sec. 1871; re-en. Sec. 93, 4th Div. Rev. Stat. 8634, Rev. C. 1907. Cal. Pen. C. Sec. 475.

11361. Making, passing, or uttering fictitious bills, etc. Every person who makes, passes, utters, or publishes with intention to defraud any other person, or who, with like intention, attempts to pass, utter, or publish any fictitious bill, note, or check, purporting to be the bill, note, or check, or other instrument in writing for the payment of money or property of some bank, corporation, copartnership, government, or individual in existence, when in fact there is no such bank, corporation, copartnership, government, or individual in existence, knowing the bill, note, check, or instrument in writing to be fictitious, is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

History: Ap. p. Sec. 82, p. 196, Bank Stat.; re-en. Sec. 94, p. 289, Cod. Stat. 1871; re-en. Sec. 94, 4th Div. Rev. Stat. 1879; re-en. Sec. 102, 4th Div. Comp. Stat. 1887; en. Sec. 846, Pen. C. 1895; amd. Sec. 1, Ch. 32, L. 1907; re-en. Sec. 8635, Rev. C. 1907. Cal. Pen. C. Sec. 476.

Use of fictitious or assumed name as forgery, see notes in 9 A. L. R. 407; 18 Ann. Cas. 482.

11362. Counterfeiting coin, bullion, etc. Every person who counterfeits any of the species of gold or silver coin current in this state, or any kind of species of gold-dust, gold or silver bullion or bars, lumps, pieces, or nuggets, or who sells, passes, or gives in payment such counterfeit coin, dust, bullion, bars, lumps, pieces, or nuggets, or permits, causes, or procures the same to be sold, uttered, or passed, with intention to defraud any person, knowing the same to be counterfeited, is guilty of counterfeiting.

History: Ap. p. Sec. 77, p. 195, Bank Stat.; re-en. Sec. 89, p. 288, Cod. Stat. 1871; re-en. Sec. 89, 4th Div. Rev. Stat. 1879; re-en. Sec. 97, 4th Div. Comp. Stat. 1887; en. Sec. 847, Pen. C. 1895; re-en. Sec. 8636, Rev. C. 1907. Cal. Pen. C. Sec. 477.

For text treatment of "Counterfeiting," see Cal. Jur. and 7 R. C. L. 913.

11363. Punishment of counterfeiting. Counterfeiting is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

History: En. Sec. 848, Pen. C. 1895; re-en. Sec. 8637, Rev. C. 1907. Cal. Pen. C. Sec. 478. Cited or applied as section 848, Penal Code, in *State v. Newman*, 34 Mont. 434, 436, 87 Pac. 462.

11364. Possessing or receiving counterfeit coin, bullion, etc. Every person who has in his possession, or receives from any other person, any counterfeit gold or silver coin of the species current in this state, or any counterfeit gold-dust, gold or silver bullion or bars, lumps, pieces, or nuggets, with the intention to sell, utter, or put off, or pass the same, or permits, causes, or produces the same to be sold, uttered, or passed with intention to defraud any person, knowing the same to be counterfeit, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

History: Ap. p. Sec. 78, p. 195, Bank Stat.; re-en. Sec. 90, p. 288, Cod. Stat. 1879; re-en. Sec. 98, 4th Div. Comp. Stat. 1887; en. Sec. 849, Pen. C. 1895; re-en. Sec. 1871; re-en. Sec. 90, 4th Div. Rev. Stat. 8638, Rev. C. 1907. Cal. Pen. C. Sec. 479.

11365. Making or possessing counterfeit dies or plates. Every person who makes or knowingly has in his possession any die, plate, or any apparatus, paper, metal, machine, or other thing whatever made use of in counterfeiting coin current in this state, in counterfeiting gold-dust, gold or silver bars, bullion, lumps, pieces, or nuggets, or in counterfeiting bank-notes or bills, is punishable by imprisonment in the state prison not less than one nor more than fourteen years; and all such dies, plates, apparatus, paper, metal, or machine intended for the purpose aforesaid must be destroyed.

History: Ap. p. Sec. 83, p. 196, Bank Stat.; re-en. Sec. 95, p. 290, Cod. Stat. 1879; re-en. Sec. 103, 4th Div. Comp. Stat. 1887; en. Sec. 850, Pen. C. 1895; re-en. Sec. 1871; re-en. Sec. 95, 4th Div. Rev. Stat. 8639, Rev. C. 1907. Cal. Pen. C. Sec. 480.

11366. Counterfeiting railroad tickets, etc. Every person who counterfeits, forges, or alters any check, ticket, order, coupon, receipt for fare, or pass, issued by any railroad company, or by any lessee or manager thereof, designated to entitle the holder to ride in the cars of such company, or who utters, publishes, or puts into circulation any such counterfeit or altered ticket, check or order, coupon, receipt for fare, or pass, with intention to defraud any such railroad company, or any lessee thereof, or any other person, is punishable by imprisonment in the state prison, or in the county jail, not exceeding one year, or by fine not exceeding one thousand dollars, or both such imprisonment and fine.

History: En. Sec. 851, Pen. C. 1895; re-en. Sec. 8640, Rev. C. 1907. Cal. Pen. C. Sec. 481.

11367. Restoring canceled tickets. Every person who, for the purpose of restoring to its original appearance and nominal value in whole or in part, removes, conceals, fills up, or obliterates the cuts, marks, punch holes, or other evidences of cancellation, from any ticket, check, coupon, receipt for fare, or pass issued by any railroad company or any lessee or manager thereof, canceled in whole or in part, with intent to dispose of by sale or gift, or to circulate the same, or with intent to defraud the railroad com-

pany, or lessees thereof, or any other person, or who, with like intention to defraud, offers for sale, or in payment of fare on the railroad of the company, such ticket, check, order, coupon, or pass, knowing the same to have been so restored, in whole or in part, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or both.

History: En. Sec. 852, Pen. C. 1895; re-en. Sec. 8641, Rev. C. 1907. Cal. Pen. C. Sec. 482.

CHAPTER 43.

LARCENY.

- Section 11368. Larceny Defined.
 11369. Uttering Fraudulent Checks or Drafts—Evidence.
 11370. Grand and Petit Larceny.
 11371. Grand Larceny Defined.
 11372. Petit Larceny Defined.
 11373. Punishment of Grand Larceny.
 11374. Punishment of Petit Larceny.
 11375. Dogs, Property.
 11376. Larceny of Lost Property.
 11377. Larceny of Written Instruments.
 11378. Value of Passage Tickets.
 11379. Written Instruments Completed But Not Delivered.
 11380. Severing and Removing Part of the Realty.
 11381. Larceny and Receiving Stolen Property Out of the State.
 11382. Conversion by Trustee, Larceny.
 11383. Verbal False Pretense, Not Larceny.
 11384. Claim of Title, Ground of Defense.
 11385. Larceny of Gas or Electricity.
 11386. Larceny of Water.
 11387. False Device for Measuring Gas, Water, or Electricity.
 11388. Receiver of Stolen Property.

11368. Larceny defined. Every person who, with the intent to deprive or defraud the true owner of his property, or of the use and benefit thereof, or to appropriate the same to the use of the taker, or of any other person either—

1. Takes from the possession of the true owner, or of any other person; or obtains from such possession by color or aid of fraudulent or false representation or pretense, or of any false token or writing, or secretes, withholds, or appropriates to his own use, or that of any other person other than the true owner, any money, personal property, thing in action, evidence of debt or contract, or article of value of any kind; or,

2. Having in his possession, custody, or control, as a bailee, servant, attorney, agent, clerk, trustee, or officer of any person, association, or corporation, or as a public officer, or as a person authorized by agreement or by competent authority to hold, or take such possession, custody, or control, any money, property, evidence of debt, or contract, article of value of any nature, or thing in action or possession, appropriates the same to his own use, or that of any other person other than the true owner, or person entitled to the benefit thereof, steals such property and is guilty of larceny.

Related sections: 11860, 12008.

History: En. Sec. 880, Pen. C. 1895; re-en. Sec. 8642, Rev. C. 1907. Cal. Pen. C. Sec. 484.

Note.—For earlier acts relating to larceny see sections 60 to 64, p. 188, Bannack Statutes; sections 72 to 76, p. 282, Codified Statutes 1871; sections 72 to 76, Fourth

Division Revised Statutes 1879; sections 78 to 82, Fourth Division Compiled Statutes 1887.

In a prosecution for the crime of grand larceny a charge to the jury which omits the terms "feloniously," or any other equivalent words which would indicate to the jury that in larceny a felonious intent is necessary to authorize a conviction, constitutes reversible error. *State v. Rechnitz*, 20 Mont. 488, 52 Pac. 264.

To convict under this section it is necessary to prove that the defendant obtained the money or property in question under circumstances showing that the owner parted with the title thereto, and not merely with the possession thereof. *State v. Dickinson*, 21 Mont. 595, 55 Pac. 539.

The ownership of property is not of the essence of the crime of larceny under this section, which abolishes the distinction recognized at common law between cases where the possession had been unlawfully obtained and those where the possession had been lawful, and an information is not bad for duplicity where it charges that the defendant had money in his possession as agent of three persons which he appropriated to his own use. *State v. Mjelde*, 29 Mont. 490, 75 Pac. 87.

An information charging the defendant with grand larceny, in that he "wilfully, unlawfully, and feloniously, and with the intent then and there to steal, did take, steal, carry, and drive away" a certain mare and colt, is not open to the objection that it fails to allege that the taking was done with felonious intent,—since the term "feloniously" imports criminal intent,—but is sufficient both under the common law and under this section and section 11371. *State v. Allen*, 34 Mont. 403, 406, 87 Pac. 177.

Where, in a prosecution for grand larceny, the court gave a definition of "larceny" in the language of this section, and further charged the jury that in every crime or public offense there must exist a union or joint operation of act and intent, and that to find defendant guilty it was sufficient to show that he had appropriated the property mentioned in the information "without color of right or authority," the instructions were erroneous, for the reason that they omitted the element of felonious or criminal intent. *State v. Peterson*, 36 Mont. 109, 110, 92 Pac. 302.

An indictment charging defendant with larceny as bailee in the words of the statute, and in the form prescribed by section 11844, was sufficient, and not open to the objection that it failed to describe the character of the bailment. *State v. Brown*, 38 Mont. 309, 312, 99 Pac. 954.

An indictment charging the defendant with larceny as bailee must contain an averment of the bailment, but the particulars of the bailment need not be averred. *State v. Brown*, 38 Mont. 309, 313, 99 Pac. 954.

A partner cannot commit larceny of the funds or property of the partnership of which he is a member; but, until an agreement to form a partnership ripens into a consummation of the agreement, a person who contemplates becoming a partner may become the bailee of his prospective partner, and, if he feloniously appropriates the latter's property to his own use, he may be convicted of larceny as bailee. *State v. Brown*, 38 Mont. 309, 315, 99 Pac. 954.

Where a party let defendant have a check under an agreement that he would use the proceeds in his own business for cashing miners' pay checks and repay the amount on a certain day, the transaction amounted to a loan for exchange and title to the money was transferred to the borrower, the loan to be repaid at some future time. The appropriation of it by the defendant, therefore, to a use other than that for which it was advanced did not render him liable to a prosecution for larceny as bailee under subdivision 2 of this section. *State v. Karri*, 51 Mont. 157, 162, 149 Pac. 956; *L. R. A.* 1916F, 90.

Cited or applied as section 8642, Revised Codes, in *State v. Van*, 44 Mont. 374, 384, 120 Pac. 479; *State v. Biggs*, 45 Mont. 400, 123 Pac. 410; *State v. Thomas*, 46 Mont. 468, 128 Pac. 588; *State v. Wiley*, 53 Mont. 383, 386, 164 Pac. 84.

For text treatment of "Larceny," see *Cal. Jur.* and 17 *R. C. L.* 1.

What constitutes larceny, see notes in 57 *Am. Dec.* 271; 30 *Am. Rep.* 159; 88 *A. S. R.* 559.

Intent to convert property to one's own use or to the use of third person as element of larceny, see note in 12 *A. L. R.* 804.

Larceny as affected by purpose to take or retain property in payment of, or as security for, a claim, see note in 13 *A. L. R.* 142.

11369. Uttering fraudulent checks or drafts—Evidence. Any person who, with intent to defraud, shall make or draw or utter or deliver any check, draft, or order for the payment of money, upon any bank or other depository, knowing at the time of such making, drawing, uttering, or delivering that the maker or drawer has not sufficient funds in or credit with such bank or depository for the payment of such check, draft, or order,

although no especial representation is made in reference thereto, shall be guilty of a misdemeanor, if said check, draft, or order is for the sum of fifty dollars or less; and if said check, draft, or order is for more than fifty dollars, shall be deemed a felony and punished as provided for in section 11373 of this code, for grand larceny. In any prosecution under this section as against the maker, or drawer thereof, the making, drawing, uttering, or delivering of a check, draft, or order, payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence of intent to defraud and all knowledge of insufficient funds in or credit with such bank or depositary, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, within five days after receiving notice that such check, draft, or order has not been paid by the drawee. The word "credit" as used herein shall be construed to mean an arrangement or an understanding with the bank or depositary for payment of such check, draft, or order.

Related sections: 11355, 11410.

re-en. Sec. 8643, Rev. C. 1907; amd. Sec. 1,

History: En. Sec. 881, Pen. C. 1895; Ch. 63, L. 1919. Cal. Pen. C. Sec. 476a.

11370. Grand and petit larceny. Larceny is divided into two degrees, the first of which is termed grand larceny, the second petit larceny.

History: En. Sec. 882, Pen. C. 1895;
re-en. Sec. 8644, Rev. C. 1907. Cal. Pen.
C. Sec. 486.

Cited or applied as section 8644, Revised
Codes, in *State v. Wiley*, 53 Mont. 383, 386,
164 Pac. 84.

11371. Grand larceny defined. Grand larceny is larceny committed with a felonious intent in either of the following cases:

1. When the property taken is of value exceeding fifty dollars.
2. When the property taken is from the person of another.
3. When the property taken is a stallion, mare, gelding, colt, foal, or filly, cow, steer, bull, stag, heifer, calf, mule, jack, jenny, goat, sheep, or hog.
4. If any person or persons shall steal, or with intent to steal shall take, carry, drive, lead, or entice away any mare, gelding, stallion, colt, foal, or filly, mule, jack or jenny, ox, cow, bull, stag, heifer, steer, calf, sheep, goat, or hog, being the property of another, he or they shall be deemed guilty of grand larceny; and shall be liable to the person or persons whose property is stolen for the said property or the value thereof, and for any expenses by him or them incurred in endeavoring to make reclamation thereof.

History: Ap. p. Sec. 883, Pen. C. 1895;
en. Sec. 1, p. 247, L. 1897; re-en. Sec. 8645,
Rev. C. 1907; amd. Sec. 1, Ch. 57, L. 1921.
Cal. Pen. C. Sec. 487.

As this section refers to live animals only, defendants, who were charged with stealing certain heifers, the carcasses of which, dressed for beef, were found concealed on the range, could be convicted only upon evidence showing beyond a reasonable doubt that they killed, or took part in killing, the animals. *State v. Keeland*, 39 Mont. 506, 512, 104 Pac. 513.

Where the larceny is of several different articles, taken in substantially the same transaction, their value may be aggre-

gated, in order to make out a charge of grand larceny. In *re Jones*, 46 Mont. 122, 125, 126 Pac. 929.

An information, alleging that accused did take, steal, drive, lead, and entice away one steer, the property of a person named, with a felonious intent on the part of the accused to deprive the true owner thereof, and to steal the same, charges "grand larceny," as defined by subdivision 4 of this section. *State v. Biggs*, 45 Mont. 400, 402, 123 Pac. 410.

An information charging that defendant stole a "horse" is a sufficient charge of grand larceny under this section. *State v. Collins*, 53 Mont. 213, 163 Pac. 102.

Cited or applied as section 8645, Revised Codes, in State v. Van, 44 Mont. 374, 384, 120 Pac. 479; State v. Wiley, 53 Mont. 383, 386, 164 Pac. 84.

11372. Petit larceny defined. Larceny in other cases is petit larceny.

History: En. Sec. 884, Pen. C. 1895; re-en. Sec. 8646, Rev. C. 1907. Cal. Pen. C. Sec. 488.

Where there are two or more distinct larcenies, the general rule is that they cannot be aggregated so as to make the value of the property stolen sufficient to constitute grand larceny, where the value of the

property taken at any one time was not sufficient for that purpose. But there is an exception to this rule, that though the larceny is of several different articles, if they are taken in substantially the same transaction, their value may be aggregated, in order to make out a charge of grand larceny. In re Jones, 46 Mont. 122, 125, 126 Pac. 929.

11373. Punishment of grand larceny. Grand larceny is punishable by imprisonment in the state prison for not less than one nor more than fourteen years.

History: En. Sec. 885, Pen. C. 1895; re-en. Sec. 8647, Rev. C. 1907. Cal. Pen. C. Sec. 489.

Grand larceny and petit larceny are but two separate degrees of the crime of larceny; there is no punishment prescribed

for larceny as such, but the degree of punishment is made to depend upon the degree of the crime. State v. Wiley, 53 Mont. 383, 386, 164 Pac. 84.

Cited or applied as section 885, Penal Code, in State v. De Wolfe, 29 Mont. 415, 424, 74 Pac. 1084.

11374. Punishment of petit larceny. Petit larceny is punishable by fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or both.

History: En. Sec. 886, Pen. C. 1895; re-en. Sec. 8648, Rev. C. 1907. Cal. Pen. C. Sec. 490.

Cited or applied as section 8648, Revised Codes, in State v. Wiley, 53 Mont. 383, 386, 164 Pac. 84.

11375. Dogs, property. Dogs are personal property, and their value is to be ascertained in the same manner as the value of other property.

History: En. Sec. 887, Pen. C. 1895; re-en. Sec. 8649, Rev. C. 1907. Cal. Pen. C. Sec. 491.

Dogs as subject of larceny, see notes in 15 Am. Rep. 356; 40 Am. Rep. 83; 13 Ann. Cas. 81.

11376. Larceny of lost property. One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the real owner and who appropriates such property to his own use or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and restore the property to him, is guilty of larceny.

History: En. Sec. 888, Pen. C. 1895; re-en. Sec. 8650, Rev. C. 1907. Cal. Pen. C. Sec. 485.

Larceny of lost property, see notes in 17 Am. Rep. 140; 21 Am. Rep. 187; 34 Am. Rep. 734; 20 Ann. Cas. 1380.

11377. Larceny of written instruments. If the thing stolen consists of any evidence of debt or other written instrument the amount of money due thereon or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property, the title to which is shown thereby, or the sum which might be recovered in the absence thereof, is the value of the thing stolen.

History: En. Sec. 889, Pen. C. 1895; re-en. Sec. 8651, Rev. C. 1907. Cal. Pen. C. Sec. 492.

11378. Value of passage tickets. If the thing stolen is any ticket or other paper or writing entitling or purporting to entitle the holder or pro-

prietor thereof to a passage upon any railroad or vessel, or other public conveyance, the price at which tickets entitling a person to a like passage are usually sold by the proprietors of such conveyance is the value of such ticket, paper, or writing.

History: En. Sec. 890, Pen. C. 1895; Larceny of railroad tickets, see notes in re-en. Sec. 8652, Rev. C. 1907. Cal. Pen. 14 Ann. Cas. 179; Ann. Cas. 1914D, 649. C. Sec. 493.

11379. Written instruments completed but not delivered. All the provisions of this chapter apply where the property taken is an instrument for the payment of money, evidence of debt, public security, or passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the makers thereof to any person as a purchaser or owner.

History: En. Sec. 891, Pen. C. 1895; re-en. Sec. 8653, Rev. C. 1907. Cal. Pen. C. Sec. 494.

11380. Severing and removing part of the realty. The provisions of this chapter apply where the thing taken is a fixture or part of the realty, and is severed at the time of the taking, in the same manner as if the thing had been severed by another person at some previous time.

History: En. Sec. 892, Pen. C. 1895; re-en. Sec. 8654, Rev. C. 1907. Cal. Pen. C. Sec. 495.

11381. Larceny and receiving stolen property out of the state. Every person who, in another state or country, steals the property of another, or receives such property knowing it to have been stolen, and brings the same into this state, may be convicted and punished in the same manner as if such larceny or receiving had been committed in this state.

History: En. Sec. 893, Pen. C. 1895; re-en. Sec. 8655, Rev. C. 1907. Cal. Pen. C. Sec. 497.

charge is sufficient if it be the same in form as for a larceny committed in this state. *State v. Willette*, 46 Mont. 326, 328, 127 Pac. 1013.

In a prosecution under this section, the information need not allege when and where the taking actually occurred, such matters being evidentiary and open to proof without specific allegation; the

Receiving in one state property stolen in another as constituting offense of receiving stolen property, see note in 18 Ann. Cas. 1026.

11382. Conversion by trustee, larceny. Every person acting as executor, administrator, guardian, receiver, the officer of any bank or corporation, or trustee of any description appointed by a deed, will, or other instrument, or by an order or judgment of a court, judge, or officer, who secretes, withholds, or otherwise appropriates to his own use, or that of any person other than the true owner, or person entitled thereto, any money, goods, thing in action, security, evidence of debt or property, or other valuable thing, or any proceeds thereof, in his possession or custody, by virtue of his office, employment, or appointment, is guilty of larceny in such degree as is herein prescribed with reference to the value of such property.

History: En. Sec. 894, Pen. C. 1895; re-en. Sec. 8656, Rev. C. 1907.

Where a guardian, who had given ample security to account for all funds coming into his hands as such, and who was personally able to raise the amount thereof on

demand, under a misapprehension that he had a right to do so, temporarily employed guardianship funds to repay a loan, thus technically appropriating them to his own use, he nevertheless could not be adjudged guilty of larceny under this section, especially where, at the settlement of the

estate, he fully accounted for all moneys paid over to him as guardian. *Smith v. Smith*, 45 Mont. 535, 580, 125 Pac. 987.

Fraudulent conversion of property by one legally in charge or custody thereof as larceny, see note in 2 L. R. A. (N. S.) 249.

11383. Verbal false pretense, not larceny. A purchase of property by means of false pretense is not criminal where the false pretense relates to the purchaser's means or ability to pay, unless the pretense is made in writing and signed by the party to be charged.

Related sections: 11410, 6290, 11987

History: En. Sec. 895, Pen. C. 1895; re-en. Sec. 8657, Rev. C. 1907.

11384. Claim of title, ground of defense. Upon an indictment, information or complaint for larceny it is a sufficient defense that the property was appropriated openly and avowedly under a claim of title preferred in good faith, even though such claim is untenable. The fact that the defendant intended to restore the property taken is no ground of defense if it has not been restored before complaint, to a magistrate or court, charging the commission of the offense, has been made.

History: En. Sec. 896, Pen. C. 1895; re-en. Sec. 8658, Rev. C. 1907.

Cited or applied as section 8658, Revised Codes, in *State v. Blaine*, 45 Mont. 482, 487, 124 Pac. 516.

11385. Larceny of gas or electricity. Every person who, with intent to injure or defraud, procures, makes, or causes to be made, any pipe, tube, wire, or other conductor of gas or electricity, and connects the same, or causes it to be connected, with any main, service-pipe, or other pipe for conducting or supplying illuminating gas or any wires or other conductor of electricity, in such manner as to supply illuminating gas or electricity to any lamp, motor, burner, or orifice, by or at which illuminating gas or electricity is consumed, around or without passing through the meter provided for the measuring and registering the quantity consumed, or in any other manner so as to evade payment therefor, and every person who, with like intent, injures or alters any gas or electric meter, or obstructs its action, is guilty of a misdemeanor. In prosecutions for offenses under this section, proof that any of the acts herein forbidden have been done in, upon, or about the premises owned or used by the defendant charged with the commission of such offense in such a manner as to decrease or lessen the amount he should pay under his understanding or contract with any person or corporation engaged in the business of furnishing and selling gas or electricity, shall be prima facie evidence of the guilt of said defendant.

History: Ap. p. Sec. 897, Pen. C. 1895; en. Sec. 1, p. 248, L. 1897; re-en. Sec. 8659, Rev. C. 1907. Cal. Pen. C. Secs. 498 and 499a.

Codes, in *State ex rel. Deeney v. Butte E. & P. Co.*, 43 Mont. 118, 115 Pac. 44.

Cited or applied as section 8659, Revised

Larceny of gas, electricity or water, see note in 6 Ann. Cas. 739.

11386. Larceny of water. Every person who, with intent to injure or defraud, connects or causes to be connected, any pipe, tube, wire, electrical conductor or other instrument with any main, service-pipe, or other pipe or conduit or flume for conducting water, or with any main, service-pipe, or other pipe or conduit for conducting gas, or with any main service wires or other electrical conductor used for the purpose of conducting electricity for light or motive service, for the purpose of taking therefrom water, gas,

or electricity without the knowledge of the owner thereof and with intent to evade payment therefor, is guilty of a misdemeanor. In prosecutions for offenses under this section proof that any of the acts herein forbidden have been done in, upon, or about the premises owned or used by the defendant charged with the commission of such offense in such a manner as to provide for such defendant's use, water, gas or electricity shall be prima facie evidence of the guilt of the defendant.

History: Ap. p. Sec. 898, Pen. C. 1895; en. Sec. 2, p. 248, L. 1897; re-en. Sec. 8660, Rev. C. 1907. Cal. Pen. C. Sec. 499.

11387. False device for measuring gas, water, or electricity. Every person or persons, or officer or officers, or employee or employees of any corporation or corporations who with intent to injure, or defraud, uses or causes to be used any false registering or false measuring device or meter for the measuring of any water, gas or electric current that is sold to any other person or persons, corporation or corporations, or who shall alter or change the record or measurement of any such meter or measuring device with intent to injure or defraud, shall be guilty of a misdemeanor and on conviction thereof shall be fined in the sum of not less than one hundred dollars nor more than five hundred dollars. In prosecutions for offenses under this section, proof of the use of such false registering meter or proof of an attempt to collect payment from any consumer for any falsified amount or quantity of gas, water, or electricity, shall be prima facie evidence of the guilt of such defendant.

History: En. Sec. 900, p. 249, L. 1897; re-en. Sec. 8661, Rev. C. 1907.

11388. Receiver of stolen property. Every person who for his own gain or to prevent the owner from again possessing his own property buys or receives any personal property, knowing the same to have been stolen, is punishable by imprisonment in the state prison not exceeding five years or in a county jail not exceeding six months; and it is presumptive evidence that such property was stolen if the same consists of jewelry, silver or plated ware or articles of personal ornament, brass, bronze or copper fixtures, fittings or parts of machinery, or electrical supplies, or what is commonly termed junk, if purchased or received from a person under the age of twenty-one years unless said property is sold by said minor at a fixed place of business carried on by said minor or his employer.

History: En. Sec. 899, Pen. C. 1895; re-en. Sec. 8662, Rev. C. 1907; amd. Sec. 1, Ch. 137, L. 1915. Cal. Pen. C. Sec. 496.

To make out the offense covered by this section, the evidence must establish that the property in question was stolen; that the defendant bought it or received it knowing it to have been stolen; and that he did so for his own gain, or to prevent the owner from regaining possession of it. *State v. Moxley*, 41 Mont. 402, 407, 110 Pac. 83.

The crime of receiving stolen property, knowing it to have been stolen, may be proved by circumstantial evidence. *State v. Moxley*, 41 Mont. 402, 408, 110 Pac. 83.

As in charging the offense of larceny, so in charging that of receiving stolen prop-

erty, the information must identify the offense by a description of the things stolen, and state the name of the owner, if known. *State v. Moxley*, 41 Mont. 402, 408, 110 Pac. 83.

In a prosecution for the crime of receiving stolen property, its ownership must be proved as alleged; hence, where the ownership, as laid in the information, was jointly in three persons named, and the evidence disclosed that most of the articles belonged to one of them, and the remaining ones to the other two individually, there was such a variance as amounted to a failure of proof. *State v. Moxley*, 41 Mont. 402, 408, 110 Pac. 83.

In an information under this section, value need not be alleged, and proof of

some value is enough. The penalty does not depend upon value. *State v. Moxley*, 41 Mont. 402, 409, 110 Pac. 83.

Cited or applied as section 899, Penal Code, in *State v. Rechnitz*, 20 Mont. 488, 494, 52 Pac. 264.

Criminal responsibility of women receiving stolen goods from husband, see note in 4 A. L. R. 281.

CHAPTER 44.

EXTORTION.

- Section 11389. Extortion Defined.
 11390. What Threats Constitute Extortion.
 11391. Punishment of Extortion in Certain Cases.
 11392. Obtaining Signature by Means of Threats.
 11393. Compulsion to Execute Instrument.
 11394. Oppression Committed Under Color of Official Right.
 11395. Extortion Committed Under Color of Official Right.
 11396. Punishment of Extortion Committed Under Color of Official Right.
 11397. Blackmail.
 11398. Written Threats.
 11399. Verbal Threats.
 11400. Unlawful Threat Referring to Act of Third Person.
 11401. Employee of Railroad Company Taking More Fare, etc.
 11402. Requiring Release of Liability, etc.
 11403. Extortion—Refusal to Pay Wages Without Discount.
 11404. Receipt or Solicitation of Gifts by Foreman From Employees.
 11405. Immunity of Witnesses.

11389. Extortion defined. Extortion is the obtaining of property from another with his consent induced by wrongful use of force or fear or under color of official right.

History: En. Sec. 910, Pen. C. 1895; re-en. Sec. 8663, Rev. C. 1907. Cal. Pen. C. Sec. 518.

For text treatment of "Extortion," see Cal. Jur. and 8 R. C. L. 293.

What is extortion, see notes in 96 Am. Dec. 193; 116 A. S. R. 446.

Cited or applied as section 8663, Revised Codes in *In re Bunston*, 52 Mont. 83, 87, 155 Pac. 1109.

11390. What threats constitute extortion. Fear, such as will constitute extortion, may be induced by a threat either—

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his, or member of his family; or,
2. To accuse him or any relative or member of his family of any crime; or,
3. To expose or impute to them or him any deformity or disgrace; or,
4. To expose any secret affecting him or them.

History: Ap. p. Sec. 128, p. 298, Cod. Stat. 1871; re-en. Sec. 128, 4th Div. Rev. Stat. 1879; re-en. Sec. 137, 4th Div. Comp. Stat. 1887; en. Sec. 911, Pen. C. 1895; re-en. Sec. 8664, Rev. C. 1907. Cal. Pen. C. Sec. 519.

did not charge the crime of extortion. In *re McCabe*, 29 Mont. 28, 30, 73 Pac. 1106.

Cited or applied as section 8664, Revised Codes, in *In re Bunston*, 52 Mont. 83, 87, 155 Pac. 1109.

The right of an employee to work is not property, and therefore a complaint charging a foreman with extorting money from an employee by a threat to discharge him

Criminal liability of one demanding payment of debt in connection with threat of prosecution, see notes in *Ann. Cas.* 1917E, 246; 18 L. R. A. (N. S.) 77; L. R. A. 1915B, 1140.

11391. Punishment of extortion in certain cases. Every person who extorts money or other property from another under circumstances not

amounting to robbery by means of force or any threat such as is mentioned in the preceding section is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 912, Pen. C. 1895; re-en. Sec. 8665, Rev. C. 1907. Cal. Pen. C. Sec. 520.

11392. Obtaining signature by means of threats. Every person who by any extortionate means obtains from another his signature to any paper or instrument whereby, if such signature were freely given, any property would be transferred or any debt, demand, charge, or right of action created is punishable in the same manner as if the actual delivery of such debt, demand, charge or right of action were obtained.

History: En. Sec. 913, Pen. C. 1895; re-en. Sec. 8666, Rev. C. 1907. Cal. Pen. C. Sec. 522.

11393. Compulsion to execute instrument. The compelling or inducing another by force or threat to make, subscribe, seal, execute, alter, or destroy any valuable security or instrument, or writing affecting or intended to affect any cause of action or defense or any property is extortion under the provisions of the three preceding sections.

History: En. Sec. 914, Pen. C. 1895; re-en. Sec. 8667, Rev. C. 1907.

11394. Oppression committed under color of official right. Every public officer or person pretending to be such who unlawfully and maliciously, under pretense or color of official authority—

1. Arrests another or detains him against his will; or,
2. Seizes or levies upon another's property; or,
3. Dispossesses another of any lands or tenements; or,
4. Does any other act whereby another person is injured in his person, property or rights, is guilty of a misdemeanor.

History: En. Sec. 915, Pen. C. 1895; re-en. Sec. 8668, Rev. C. 1907.

11395. Extortion committed under color of official right. Every public officer who asks or receives or agrees to receive a fee or other compensation for his official services, either:

1. In excess of the fee or compensation allowed to him by statute therefor; or,
2. Where no fee or compensation is allowed to him by statute therefor; is guilty of a misdemeanor.

History: En. Sec. 916, Pen. C. 1895; re-en. Sec. 8669, Rev. C. 1907.

11396. Punishment of extortion committed under color of official right. Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed by this code, is guilty of a misdemeanor.

History: En. Sec. 917, Pen. C. 1895; re-en. Sec. 8670, Rev. C. 1907. Cal. Pen. C. Sec. 521.

11397. Blackmail. Every person who, knowing the contents thereof, and with intent by means thereof, to extort or gain any money or other property, or to do, abet or procure any illegal or wrongful act, sends, delivers or in any manner causes to be forwarded or received, or makes or parts with for the purpose that there may be sent or delivered, any letter or writing whether subscribed or not, threatening:

1. To accuse any person of crime; or,
2. To do any injury to any person or to any property; or,
3. To publish or connive at publishing any libel; or,
4. To expose or impute to any person any deformity or disgrace; or,
5. To expose any secret affecting any person;

is punishable by imprisonment in the state prison, not exceeding five years, or by fine not exceeding five thousand dollars, or both.

History: En. Sec. 918, Pen. C. 1895; Cited or applied as section 8671, Revised re-en. Sec. 8671, Rev. C. 1907. Cal. Pen. Codes, in In re Bunston, 52 Mont. 83, 87, C. Sec. 523. 155 Pac. 1109.

11398. Written threats. Every person who, knowing the contents thereof, sends, delivers, or in any manner causes to be sent or received any letter or other writing, whether subscribed or not, threatening to do an unlawful injury to the person or property of another, is guilty of a misdemeanor.

History: En. Sec. 919, Pen. C. 1895; re-en. Sec. 8672, Rev. C. 1907.

11399. Verbal threats. Every person who, under circumstances not amounting to robbery or an attempt at robbery, with intent to gain or extort any money or other property, verbally makes such a threat as would be criminal under either of the preceding sections of this chapter if made or communicated in writing, is guilty of a misdemeanor.

History: En. Sec. 920, Pen. C. 1895; re-en. Sec. 8673, Rev. C. 1907.

11400. Unlawful threat referring to act of third person. It is immaterial whether a threat made as specified in this chapter is of things to be done or omitted by the offender or by any other person.

History: En. Sec. 921, Pen. C. 1895; re-en. Sec. 8674, Rev. C. 1907.

11401. Employee of railroad company taking more fare, etc. Every officer, agent, or employee of a railroad company, who asks or receives a greater sum than is allowed by law for the carriage of passengers or freight, is guilty of a misdemeanor.

History: En. Sec. 922, Pen. C. 1895; re-en. Sec. 8675, Rev. C. 1907. Cal. Pen. C. Sec. 525.

11402. Requiring release of liability, etc. Every person, company or corporation, which requires of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such person, company or corporation is released or discharged from liability or responsibility on account of personal injuries received by such servants or employees, while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employees thereof, is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding five thousand dollars, or both.

History: En. Sec. 923, Pen. C. 1895; re-en. Sec. 8676, Rev. C. 1907.

11403. Extortion—Refusal to pay wages without discount. Every person, company, or corporation indebted to another person for labor, or any agent of any person, copartnership, or corporation so indebted, who shall, with intent to secure from such other person a discount upon the payment of such indebtedness, wilfully refuse to pay the same, or falsely deny the

same, or the amount or validity thereof, or that the same is due, is guilty of a misdemeanor; provided, however, that nothing herein contained shall prohibit any employer from fixing regular pay days for the payment of wages or salary earned in the calendar month immediately preceding such pay days, except in cases where the employee is discharged.

History: En. Sec. 1, Ch. 144, L. 1907; Sec. 8677, Rev. C. 1907.

11404. Receipt or solicitation of gifts by foremen from employees. Any superintendent, foreman, assistant, boss, or any other person or persons who shall receive or solicit, or cause to be received or solicited, any sum of money or other valuable consideration from any person for or on account of the employment or the continuing of the employment of such person, or of anyone else, or for or on account of any promise or agreement to employ or to continue to employ any such person, or anyone else, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than one thousand dollars, or undergo an imprisonment in the county jail of not more than one year, or both, at the discretion of the court.

History: En. Sec. 1, Ch. 52, L. 1907; Sec. 8678, Rev. C. 1907.

11405. Immunity of witnesses. No person shall be excused from attending or testifying, or producing any books, papers, documents, or any thing or things before any court or magistrate upon any investigation, proceeding, or trial for a violation of any of the provisions of this act, upon the ground, or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to convict him of a crime, or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify, or produce evidence, documentary or otherwise; and no testimony or evidence so given or produced shall be received against him in any civil or criminal proceeding, action, or investigation.

History: En. Sec. 2, Ch. 52, L. 1907; Sec. 8679, Rev. C. 1907.

CHAPTER 45.

FALSE PERSONATION AND CHEATS—FALSE ADVERTISING—FAKERS.

- Section 11406. Marrying Under False Personation.
 11407. Falsely Personating Another in Other Cases.
 11408. False Statement Respecting Financial Condition.
 11409. Receiving Property in a False Character.
 11410. Obtaining Money or Property by False Pretenses.
 11411. Confidence Games.
 11412. Selling Land Twice.
 11413. Married Person Selling Land Under False Representations.
 11414. Mock Auction.
 11415. Consignee, False Statement by.
 11416. Selling or Removing Mortgaged Property to Defraud Mortgagee.
 11417. False Pedigree of Animals, etc.
 11418. Selling Animal With False Pedigree.
 11419. Use of False Pretenses in Selling Mines.
 11420. Interference With Samples for Assay.
 11421. Making False Samples of Ore.
 11422. False Advertising Defined.
 11423. False Statements Regarding Merchandise.
 11424. Penalty for Violation of Act.
 11425. Fakers—Definition and Punishment.

11406. Marrying under false personation. Every person who falsely personates another, and in such assumed character marries or pretends to marry, or to sustain the marriage relation towards another, with or without connivance of such other, is guilty of a felony.

History: En. Sec. 930, Pen. C. 1895; re-en. Sec. 8680, Rev. C. 1907. Cal. Pen. C. Sec. 528. tion" and "False Pretenses," see Cal. Jur. and 11 R. C. L. 825.

Criminal responsibility of one aiding and abetting the offense of false personation, see note in 5 A. L. R. 784.

For text treatment of "False Persona-

11407. Falsely personating another in other cases. Every person who falsely personates another, and in such assumed character, either—

1. Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety; or,

2. Verifies, publishes, acknowledges, or proves in the name of another person, any written instrument, with intent that the same may be recorded, delivered and used as true; or,

3. Does any other act whereby, if it were done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person; or,

4. Confesses a judgment,

is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding five thousand dollars, or both.

History: Ap. p. Sec. 97, p. 200, Bank Stat.; re-en. Sec. 109, p. 294, Cod. Stat. 1887; en. Sec. 931, Pen. C. 1895; re-en. Sec. 8681, Rev. C. 1907. Cal. Pen. C. Sec. 529. Stat. 1871; re-en. Sec. 109, 4th Div. Rev. Stat. 1879; re-en. Sec. 117, 4th Div. Comp.

11408. False statement respecting financial condition. Any person who, either individually or in a representative capacity—

1. Shall knowingly make a false statement in writing to any person, firm or corporation engaged in banking or other business respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as member, director, officer, employee or agent, for the purpose of procuring a loan, or credit in any form or an extension of credit from the person, firm or corporation to whom such false statement is made, either for his own use or for the use of the firm or corporation with which he is connected as aforesaid; or,

2. Having previously made, or having knowledge that another has previously made, a statement in writing to any person, firm or corporation engaged in banking or other business respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as aforesaid, shall afterwards procure on faith of such statement from the person, firm or corporation to whom such previous statement has been made, either for his own use, or for the use of the firm or corporation with which he is so connected, a loan or credit in any form, or an extension of credit, knowing at the time of such procuring, that such previously made statement is in any material particular false, with respect to the present financial conditions of himself or of the firm or corporation with which he is so connected; or,

3. Shall deliver to any notebroker or other agent for the sale or negotiation of commercial paper any statement in writing, knowing the same to be false, respecting his own financial condition or the financial condition of any firm or corporation with which he is connected as aforesaid, for the purpose of having such statement used in the furtherance of the sale, pledge or negotiating of any note, bill, or other instrument, for the payment of money made, or endorsed or accepted, or owned in whole or in part, by him individually or by the firm or corporation with which he is so connected; or,

4. Having previously delivered, or having knowledge that another has previously delivered to any notebroker or other agent for the sale or negotiation of commercial paper, a statement in writing respecting his own financial condition, or the financial condition of any firm or corporation with which he is connected as aforesaid, shall afterwards deliver to such notebroker or other agent for the purpose of sale, pledge or negotiation on faith of such statement, any note, bill or other instrument for the payment of money made, or endorsed, or accepted, or owned in whole or in part, by himself individually or by the firm or corporation with which he is so connected, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself or such firm or corporation, is punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding five years, or both.

History: En. Sec. 1, Ch. 96, L. 1909.

11409. Receiving property in a false character. Every person who falsely personates another, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received.

History: Ap. p. Sec. 98, p. 201, Bankack Stat.; re-en. Sec. 110, p. 294, Cod. Stat. 1871; re-en. Sec. 110, 4th Div. Rev. Stat. 1879; re-en. Sec. 118, 4th Div. Comp.

Stat. 1887; en. Sec. 932, Pen. C. 1895; re-en. Sec. 8682, Rev. C. 1907. Cal. Pen. C. Sec. 530.

11410. Obtaining money or property by false pretenses. Every person who knowingly and designedly, by false or fraudulent representation or pretenses, defrauds any other person of money or property, including evidence of indebtedness, or who causes or procures others to report falsely of his wealth or mercantile character, and by thus imposing upon any person obtains credit, and thereby fraudulently gets into possession of money or property, is punishable in the same manner and to the same extent as for larceny of the money or property so obtained.

Related sections: 6290, 11355, 11369, 11383, 11987.

History: En. Sec. 933, Pen. C. 1895; re-en. Sec. 8683, Rev. C. 1907; amd. Sec. 1, Ch. 60, L. 1921. Cal. Pen. C. Sec. 532.

The crime of attempting to obtain money by false pretense is complete whenever the false representation is made, with the re-

quisite criminal intent, under such circumstances that, if the thing of value had been obtained, a deprivation would have been the result; the information need not allege that the person attempted to be defrauded believed the representation, nor that the fraud was completed. *State v. Phillips*, 36 Mont. 112, 117, 92 Pac. 299.

To convict of the crime of obtaining

property by false pretenses, the prosecution must allege and prove the making by the accused to the person defrauded of one or more representations of past events or existing facts; that such person believed the representations to be true and, relying thereon, parted with money or property which was received by the accused; that the representations were false and were made knowingly and designedly with intent to defraud such person. *State v. Bratton et al.*, 56 Mont. 563, 186 Pac. 327.

Cited or applied as section 8683, Revised Codes in *State v. Taylor*, 51 Mont.

387, 153 Pac. 275; *State v. Moran*, 56 Mont. 94, 107, 182 Pac. 110.

Obtaining goods by false pretenses, see notes in 21 A. S. R. 265; 25 A. S. R. 378.

What constitutes attempt to obtain money by false pretenses, see note in Ann. Cas. 1917B, 1230.

Real property obtained by false pretense as criminal offense, see notes in 9 Ann. Cas. 857; 18 Ann. Cas. 397; Ann. Cas. 1915D, 470.

Conversation by telephone as false pretense, see note in 8 A. L. R. 656.

11411. Confidence games. Every person who obtains or attempts to obtain from another any money or property, by means or use of brace faro, or any false or worthless checks, or by any other means, artifice, device, instrument or pretense, commonly called confidence games or bunco, is punishable by imprisonment in the state prison not exceeding ten years.

Related section: 11162.

History: En. Sec. 934, Pen. C. 1895; re-en. Sec. 8684, Rev. C. 1907.

The essence of the crime of "bunco," or confidence game, is deceit and false pretense of which the injured party has no suspicion upon which he relies and upon the faith of which he parts with his prop-

erty. *State v. Moran et al.*, 56 Mont. 94, 182 Pac. 110.

What is "confidence game," see notes in Ann. Cas. 1912A, 758; Ann. Cas. 1916A, 734.

False representations in business transactions as within statute relating to "confidence game," see note in 9 A. L. R. 1527.

11412. Selling land twice. Every person who, after once selling, bartering or disposing of any tract of land or town lot, or after executing any bond or agreement for the sale of any land or town lot, again wilfully and with intent to defraud previous or subsequent purchasers, sells, barter or disposes of the same tract of land or town lot, or any part thereof, or wilfully and with intent to defraud previous or subsequent purchasers, executes any bond or agreement to sell, barter or dispose of the same land or lot, or any part thereof, to any other person for a valuable consideration, is punishable by imprisonment in the state prison not less than one nor more than ten years.

History: En. Sec. 137, p. 212, Bannack Stat.; re-en. Sec. 162, p. 307, Cod. Stat. 1871; re-en. Sec. 162, 4th Div. Rev. Stat. 1879; re-en. Sec. 200, 4th Div. Comp. Stat. 1887; amd. Sec. 935, Pen. C. 1895; re-en. Sec. 8685, Rev. C. 1907. Cal. Pen. C. Sec. 533.

To make out the offense denounced by this section, it must be alleged and proven:

That a sale and conveyance, or an agreement therefor, have been made; that a second sale and conveyance, or an agreement therefor, have been made for a valuable consideration; and that such second sale has been knowingly made, and with a felonious intent to defraud either the first or second purchaser. In *re Weed*, 26 Mont. 241, 248, 67 Pac. 308.

11413. Married person selling land under false representations. Every person who falsely represents himself or herself as competent to sell or mortgage any real estate, to the validity of which sale or mortgage the assent or concurrence of his wife or her husband is necessary, and under such representation wilfully conveys or mortgages the same, is guilty of a felony.

History: En. Sec. 936, Pen. C. 1895; re-en. Sec. 8686, Rev. C. 1907. Cal. Pen. C. Sec. 534.

11414. Mock auction. Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by auction, or by any of the practices known as mock auctions, is punishable by imprisonment, in the state prison not exceeding three years, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both fine and imprisonment; and in addition thereto, forfeits any license he may hold as auctioneer, and is forever disqualified from receiving a license to act as auctioneer within this state.

History: En. Sec. 937, Pen. C. 1895; re-en. Sec. 8687, Rev. C. 1907. Cal. Pen. C. Sec. 535.

11415. Consignee, false statement by. Every commission merchant, broker, agent, factor or consignee who shall wilfully and corruptly make or cause to be made to the principal or consignor of such commission merchant, agent, broker, factor or consignee a false statement concerning the price obtained for or the quality or quantity of any property consigned or entrusted to such commission merchant, agent, broker, factor or consignee for sale, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding five hundred dollars or imprisonment in the county jail not exceeding six months, or both.

History: En. Sec. 938, Pen. C. 1895; re-en. Sec. 8688, Rev. C. 1907. Cal. Pen. C. Sec. 536.

11416. Selling or removing mortgaged property to defraud mortgagee. Every person who, after mortgaging any personal property, except railroad locomotives, railroad engines, rolling-stock of a railroad, steamboat machinery in actual use and vessels, removes or causes to be removed, or permits the removal of such mortgaged property from the county, where it is situated at the time it was mortgaged, without the written consent of the mortgagee, with the intent to deprive the mortgagee of his claim thereto and interest therein; and every person who, after mortgaging any personal property of any kind or character whatsoever, voluntarily sells or transfers any such mortgaged property without the written consent of the mortgagee, and with the intent to defraud such mortgagee of his claim thereto and interest therein, or with the intent to defraud the purchaser thereof, of any money or thing of value, is guilty of larceny.

History: En. Sec. 939, Pen. C. 1895; 8689, Rev. C. 1907; amd. Sec. 1, Ch. 7, L. amd. Sec. 1, Ch. 72, L. 1905; re-en. Sec. 1909. Cal. Pen. C. Sec. 538.

11417. False pedigree of animals, etc. Every person who makes, publishes, delivers or uses any false or fraudulent pedigree of any horse, cattle, sheep or other domestic animal for the purpose of increasing the value of the animal is punishable by a fine not exceeding five hundred dollars.

History: Ap. p. Sec. 80, 5th Div. Comp. Stat. 1887; en. Sec. 940, Pen. C. 1895; re-en. Sec. 8690, Rev. C. 1907.

11418. Selling animal with false pedigree. Every person who by statements or representations concerning a false or fraudulent pedigree sells to another any domestic animal and such animal is not of the breeding or

pedigree as represented, is punishable by a fine not exceeding fifty dollars, and is liable to the purchaser in a civil action for double the value or price paid for the animal.

History: Ap. p. Sec. 81, 5th Div. Comp. Stat. 1887; re-en. Sec. 941, Pen. C. 1895; re-en. Sec. 8691, Rev. C. 1907.

Representation as to condition or quality of animals as criminal false pretense, see note in Ann. 1913C, 273.

11419. Use of false pretenses in selling mines. Every person who, with intent to cheat, wrong, or defraud, places in or upon any mine or mining-claim any ores or specimens of ores not extracted therefrom, or exhibits any ore, or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining-claim, or interest therein, or who obtains any money or property by any such false pretenses or artifices, is guilty of a felony.

History: En. Sec. 942, Pen. C. 1895; re-en. Sec. 8692, Rev. C. 1907.

11420. Interference with samples for assay. Every person who interferes with, or in any manner changes samples of ores or bullion produced for sampling, or changes or alters samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong, or defraud, is guilty of a felony.

History: En. Sec. 943, Pen. C. 1895; re-en. Sec. 8693, Rev. C. 1907.

11421. Making false samples of ore. Every person who, with intent to cheat, wrong, or defraud, makes or publishes a false sample of ore or bullion, or who makes or publishes, or causes to be published a false assay of ore or bullion, is guilty of a felony.

History: En. Sec. 944, Pen. C. 1895; re-en. Sec. 8694, Rev. C. 1907.

11422. False advertising defined. False advertising as used in this act shall mean any false statement regarding the quality or price of goods, wares or merchandise, in any advertisement, circular, letter, poster, handbill, display card, or other written or printed matter, by means of which such goods, wares or merchandise are offered for sale to the public.

History: En. Sec. 1, Ch. 117, L. 1915.

11423. False statements regarding merchandise. It shall be unlawful for any person, corporation, copartnership, or association of individuals to make any false statement regarding the quality or price of goods, wares or merchandise in any advertisement, circular, letter, poster, handbill, display card, or other written or printed matter, by means of which such goods, wares or merchandise are offered for sale to the public.

History: En. Sec. 2, Ch. 117, L. 1915.

or status of the subject of a sale or trade as false pretense, see note in 49 L. R. A. (N. S.) 574.

Misrepresenting the quality, condition,

11424. Penalty for violation of act. Any person violating any of the provisions of this act by means of false advertising, as herein defined, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment.

History: En. Sec. 3, Ch. 117, L. 1915.

11425. Fakers—Definition and punishment. Any person who shall sell or attempt to sell any articles, goods, wares or merchandise of any kind upon the streets of any city or town by means of any false representations, trick, device, or lottery, or by means of any game of chance, for the purpose and with intent to obtain a greater or better price for such article or goods than their actual retail price or value upon the market, shall be deemed a faker, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than ten days nor more than fifty days.

History: En. Sec. 1, Ch. 116, L. 1915.

CHAPTER 46.

FRAUDULENT DESTRUCTION OF INSURED PROPERTY.

Section 11426. Burning or Destroying Property Insured.

11427. Presenting False Proofs Upon Policy of Insurance.

11426. Burning or destroying property insured. Every person who wilfully burns or in any other manner injures or destroys any property which is at the time insured against loss or damage by fire or by any other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of or in possession of such person, or of any other, is punishable by imprisonment in the state prison not less than one nor more than ten years.

Related sections: 11337, 11476.

re-en. Sec. 8698, Rev. C. 1907. Cal. Pen.

History: En. Sec. 950, Pen. C. 1895; C. Sec. 548.

11427. Presenting false proofs upon policy of insurance. Every person who presents or causes to be presented any false or fraudulent claim, or any proof in support of such claim, upon any contract of insurance for the payment of any loss, or who prepares, makes, or subscribes any account, certificate of survey, affidavit, or proof of loss, or other book, paper or writing, with intent to present or use the same, or allow it to be presented or used in support of any such claim, is punishable by imprisonment in the state prison not exceeding three years, or by fine not exceeding one thousand dollars, or both.

History: En. Sec. 951, Pen. C. 1895; re-en. Sec. 8699, Rev. C. 1907. Cal. Pen. C. Sec. 549.

CHAPTER 47.

FALSE WEIGHTS AND MEASURES.

Section 11428. False Weight and Measure Defined.

11429. Using False Weights or Measures.

11430. Stamping False Weight, etc., on Casks or Packages.

11431. Weight by the Ton or Pound.

11428. False weight and measure defined. A false weight or measure is one which does not conform to the standard established by the laws of the United States of America.

History: En. Sec. 960, Pen. C. 1895;
re-en. Sec. 8700, Rev. C. 1907. Cal. Pen.
C. Sec. 552.

Cited or applied as section 960, Penal
Code, in State v. Mitchell, 17 Mont. 67, 74,
42 Pac. 100.

11429. Using false weights or measures. Every person who uses any weight or measure, knowing it to be false, by which another is defrauded or otherwise injured, is guilty of a misdemeanor.

History: En. Sec. 961, Pen. C. 1895; of false weights and measures, see note in re-en. Sec. 8701, Rev. C. 1907. Cal. Pen. Ann. Cas. 1916C, 465.
C. Sec. 553.

Knowledge or intent as element of offense of using or giving false weight or measure, see note in L. R. A. 1917D, 1129.

Criminal liability of corporation for use

11430. Stamping false weight, etc., on casks or packages. Every person who knowingly marks or stamps false or short weight or measure, or false tare, on any cask or package, or knowingly sells or offers for sale, any cask or package so marked, is guilty of a misdemeanor.

History: En. Sec. 962, Pen. C. 1895; re-en. Sec. 8702, Rev. C. 1907. Cal. Pen. C. Sec. 554.

11431. Weight by the ton or pound. In all sales of coal, hay and other commodities, usually sold by the ton or fractional part thereof, the seller must give to the purchaser full weight, at the rate of two thousand pounds to the ton; and in all sales of articles which are sold in commerce by avoirdupois weight, the seller must give to the purchaser full weight, at the rate of sixteen ounces to the pound; and any person violating this section is guilty of a misdemeanor.

History: En. Sec. 963, Pen. C. 1895; re-en. Sec. 8703, Rev. C. 1907. Cal. Pen. C. Sec. 555.

Cited or applied as section 963, Penal Code, in *State v. Mitchell*, 17 Mont. 67, 74, 42 Pac. 100.

CHAPTER 48.

FRAUDULENT CONVEYANCES.

Section 11432. Fraudulent Conveyances.

11433. Fraudulent Removal of Property to Prevent Levy.

11434. Knowingly Receiving Property.

11435. Concealment of the Effects of Insolvent Debtor.

11432. Fraudulent conveyances. Every person who is a party to any fraudulent conveyance of any lands, tenements, or hereditaments, goods or chattels or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance, had, made, or contrived, with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid, at any time wittingly and willingly puts in, uses, avows, maintains, justifies or defends the same, or any of them, as true and done, had or made in good faith, or upon good consideration, or aliens, assigns or sells any of the lands, tenements or hereditaments, goods, chattels or other things before mentioned, to him or them conveyed as aforesaid, or any part thereof, is guilty of a misdemeanor.

History: En. Sec. 134, p. 211, Bannack 1887; amd. Sec. 970, Pen. C. 1895; re-en. Stat.; re-en. Sec. 159, p. 306, Cod. Stat. Sec. 8704, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 159, 4th Div. Rev. Stat. 531.
1879; re-en. Sec. 197, 4th Div. Comp. Stat.

11433. Fraudulent removal of property to prevent levy. Every person who, with intent to defraud a creditor, or to prevent any of his property from being made liable for the payment of any of his debts, or from being

levied upon by a writ of execution or attachment, removes any of his property or secretes, assigns, conveys, or otherwise disposes of the same, is guilty of a misdemeanor.

History: Ap. p. Sec. 139, p. 212, Bank Stat.; re-en. Sec. 164, p. 307, Cod. Stat. 1887; en. Sec. 971, Pen. C. 1895; re-en. Stat. 1871; re-en. Sec. 164, 4th Div. Rev. Sec. 8705, Rev. C. 1907.

11434. Knowingly receiving property. Every person who receives any property from another, knowing that the same is transferred or delivered to him in violation of or with intent to violate the last section, is guilty of a misdemeanor.

History: En. Sec. 972, Pen. C. 1895; re-en. Sec. 8706, Rev. C. 1907.

11435. Concealment of the effects of insolvent debtor. Every person who makes a general assignment of his property for the payment of his debts and wilfully conceals any part of his estate or effects, or any book account or any writing relating thereto, or any debt owing him by any person, or who represents in his list of creditors any person to whom he is not indebted, or does any act contrary to the provisions of sections 8612 to 8641 of the Civil Code, is guilty of a misdemeanor.

History: En. Sec. 973, Pen. C. 1895; re-en. Sec. 8707, Rev. C. 1907.

CHAPTER 49.

FRAUDS IN THE MANAGEMENT OF CORPORATIONS.

- Section 11436.** Fraud in Publishing False Statement of Concern.
 11437. Frauds in Subscriptions for Stock of Corporations.
 11438. Fraudulent Issue of Stock, Scrip, etc.
 11439. Frauds in Procuring Organization, etc., of Corporation.
 11440. Unauthorized Use of Name in Prospectus, etc.
 11441. Misconduct of Directors of Stock Corporations.
 11442. Savings Bank Officer Overdrawing His Account.
 11443. Receiving Deposits in Insolvent Banks.
 11444. Prior Offense Not Affected by This Act.
 11445. Frauds in Keeping Accounts in Books of Corporation.
 11446. Officer of Corporation Publishing False Reports.
 11447. Officer of Corporation to Permit an Inspection.
 11448. Officer of Railroad Company Contracting Debt in Its Behalf Exceeding Its Available Means.
 11449. Debt Contracted in Violation of the Last Section Not Invalid.
 11450. Director of a Corporation Presumed to Have Knowledge of Its Affairs.
 11451. Director Present at Meeting, When Presumed to Have Assented to Proceedings.
 11452. Director Absent From Meeting, When Presumed to Have Assented to Proceedings.
 11453. Foreign Corporations.
 11454. Same.
 11455. Agent of Foreign Corporation.
 11456. Corporation Not Complying With Laws.
 11457. Agent of Corporation.
 11458. Director Defined.

11436. Fraud in publishing false statement of concern. Any person who knowingly makes or publishes any book, prospectus, notice, report, statement, exhibit or other publication of or concerning the affairs, financial condition or property of any corporation, joint stock association, copartnership or individual, which said book, prospectus, notice, report, statement, exhibit or other publication shall contain any material state-

ment which is wilfully and knowingly false so as to give a less or greater apparent value to the shares, bonds or property of said corporation, joint stock association, copartnership or individual, or any part of said shares, bonds or property, than said shares, bonds or property, or any part thereof, shall really and in fact possess, shall be deemed guilty of a felony, and, upon conviction thereof, shall be imprisoned for not more than ten years, or fined not more than ten thousand dollars, or shall suffer both said fine and imprisonment.

History: En. Sec. 1, Ch. 131, L. 1907; Sec. 8708, Rev. C. 1907.

11437. Frauds in subscriptions for stock of corporations. Every person who signs the name of a fictitious person to any subscription for, or an agreement to take, stock in any corporation, existing or proposed, and every person who signs to any subscription or agreement the name of any person, knowing that such person has not means or does not intend in good faith to comply with all the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced, is guilty of a misdemeanor.

History: En. Sec. 980, Pen. C. 1895; re-en. Sec. 8709, Rev. C. 1907. Cal. Pen. C. Sec. 557.

11438. Fraudulent issue of stock, scrip, etc. Every officer, agent or other person in the service of any joint stock company or corporation formed or existing under the laws of this state, or of the United States, or of any state or territory thereof, or of any foreign government or country, who wilfully and knowingly, with intent to defraud, either—

1. Sells, pledges or issues, or causes to be sold, pledged, or issued, signs or executes, or causes to be signed or executed, with intent to sell, pledge or issue, or cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first duly authorized by such company or corporation, or contrary to the charter or laws under which said company or corporation exists, or in excess of the power of such company or corporation, or of the limit imposed by law or otherwise, upon its power to create or issue stock or evidence of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer, or ownership of any such share or shares, is punishable by imprisonment in the state prison not exceeding seven years, or by a fine not exceeding three thousand dollars, or both.

History: En. Sec. 981, Pen. C. 1895;
re-en. Sec. 8710, Rev. C. 1907.

Cited or applied as section 981, Penal Code, in *In re Wisner*, 36 Mont. 298, 307, 92 Pac. 958.

11439. Frauds in procuring organization, etc., of corporation. Every officer, agent or clerk of any corporation, or of any persons proposing to organize a corporation, or to increase the capital stock of any corporation, who knowingly exhibits any false, forged or altered book, paper, voucher, security or other instrument of evidence, to any public officer or board authorized by law to examine the organization of such corporation,

or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in the state prison not less than three nor more than ten years.

History: En. Sec. 982, Pen. C. 1895; re-en. Sec. 8711, Rev. C. 1907. Cal. Pen. C. Sec. 558.

11440. Unauthorized use of name in prospectus, etc. Every person who, without being authorized so to do, subscribes the name of another to, or inserts the name of another in, any prospectus, circular or other advertisement or announcement of any corporation or joint stock association, existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association, is guilty of a misdemeanor.

History: En. Sec. 983, Pen. C. 1895; re-en. Sec. 8712, Rev. C. 1907. Cal. Pen. C. Sec. 559.

11441. Misconduct of directors of stock corporations. Every director of any stock corporation who concurs in any vote or act of the directors of such corporation or any of them, by which it is intended, either—

1. To make any dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw or in any manner, except as provided by law, pay to the stockholders, or any of them, any part of the capital stock of the corporation; or,

3. To discount or receive any evidence of debt in payment of any instalment actually called in and required to be paid, or with the intent to provide the means of making such payments; or,

4. To receive or discount any note or other evidence of debt, with the intent to enable any stockholder to withdraw any part of the money paid in by him, or his stock; or,

5. To receive from any other stock corporation, in exchange for the shares, notes, bonds or other evidences of debt of their own corporation, shares of the capital stock of such other corporation, or notes, bonds, or other evidences of debt issued by such corporation, is guilty of a misdemeanor.

History: En. Sec. 984, Pen. C. 1895; re-en. Sec. 8713, Rev. C. 1907. Cal. Pen. C. Sec. 560.

Cited or applied as section 984, Penal Code, in *In re Wisner*, 36 Mont. 298, 307, 92 Pac. 958.

11442. Savings bank officer overdrawing his account. Every officer, teller, or clerk of any savings bank, who knowingly overdraws his account with such bank, and thereby wrongfully obtains the money, note or funds of such bank, is guilty of a misdemeanor.

History: En. Sec. 985, Pen. C. 1895; re-en. Sec. 8714, Rev. C. 1907. Cal. Pen. C. Sec. 561.

11443. Receiving deposits in insolvent banks. No bank, banking-house, exchange broker, individual banker, deposit office or firm, company, corporation, or party engaged in the banking, broker, exchange, loan or deposit business shall accept or receive on deposit, or for safe-keeping,

or to loan, with or without interest from any person, any money or any bills, notes or any paper circulating as money, or any notes, drafts, bills of exchange, bank checks or other commercial paper, for safe-keeping or for collection, when such bank, banking-house, exchange broker, individual banker, deposit office, firm, company, corporation, or party is unsafe and insolvent. If any such bank, banking-house, exchange broker, individual banker, deposit office, or firm, company, corporation or party shall receive or accept on deposit, or for safe-keeping or to loan, with or without interest from any persons, any money or any bills of exchange, bank checks or other commercial paper, drafts, notes or other paper circulating as money, or any notes, for safe-keeping, or for collection, when unsafe or insolvent, any officer, director, cashier, manager, principal, agent, clerk, party or managing party, thereof, knowing or having reason to know, of any such unsafeness or insolvency, who shall knowingly receive or accept, be accessory to, or permit or connive at, or receive or accept on deposit therein or thereby, any such deposits, money or property as aforesaid, shall be guilty of a felony and shall be punished by imprisonment in the state penitentiary not less than one year or more than twenty years.

Related section: 6082.

History: Ap. p. Sec. 986, Pen. C. 1895; en. Sec. 1, Ch. 84, L. 1907; Sec. 8715, Rev. C. 1907. Cal. Pen. C. Sec. 562.

Prior to the enactment of this section in its present form the statutory provisions in regard to the reception of deposits by an insolvent bank did not include private bankers. In re Wisner, 36 Mont. 298, 311, 92 Pac. 958.

Intent as element of crime of receiving deposit in insolvent bank, see note in Ann. Cas. 1917B, 1081; 31 L. R. A. 124.

Officer's criminal liability for receiving deposit in insolvent bank as dependent on his receiving it in person, see notes in Ann. Cas. 1921B, 316; 26 L. R. A. (N. S.) 1072.

When is a bank insolvent within statute making it an offense to receive further deposits, see note in 20 L. R. A. (N. S.) 444.

11444. Prior offense not affected by this act. But the passage and approval of this act and the amendment as herein provided shall not constitute a bar to the prosecution of an act or offense heretofore committed in violation of said section 986, but said act or offense and the person committing the same may be prosecuted, indicted, or informed against, and punished, the same as if this act had not been passed.

History: En. Sec. 2, Ch. 84, L. 1907; Sec. 8716, Rev. C. 1907.

Note.—The above reference to section 986 is to the preceding section before amendment.

11445. Frauds in keeping accounts in books of corporation. Every officer, director or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and who, with intent to defraud, omits to make, or to cause or to direct to be made, a full and true entry thereof in the books or accounts of such corporation or association, and every director, officer, agent or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes, or concurs in making any false entries, or omits, or concurs in omitting to make any material entry in any book of accounts or other record or document kept by such corporation or association, is punishable by imprisonment in the state prison not less than three nor more than ten years, or by imprison-

ment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both imprisonment and fine.

History: En. Sec. 987, Pen. C. 1895; re-en. Sec. 8717, Rev. C. 1907. Cal. Pen. C. Sec. 563.

11446. Officer of corporation publishing false reports. Every director, officer, or agent of any corporation or joint-stock association, who knowingly concurs in making, publishing or posting any written report, exhibit, or statement of its affairs or pecuniary condition, or book or notice containing any material statement which is false, or refuses to make any book or post any notice required by law, in the manner required by law, other than such as are mentioned in this chapter, is guilty of a felony.

History: En. Sec. 988, Pen. C. 1895; re-en. Sec. 8718, Rev. C. 1907. Cal. Pen. C. Sec. 564.

The capital stock of a foreign corporation may consist in whole or in part of something other than money, and the state, having failed, in a prosecution against the cashier and manager of a foreign banking corporation for filing a false report of its

affairs, to sustain the burden of proving that the capital stock of the corporation in question had not been paid in money or any other property, an order directing a verdict of acquittal was proper. *State v. Clements*, 37 Mont. 314, 317, 96 Pac. 498.

What constitutes "knowingly" making false report by corporate officer, see note in Ann. Cas. 1912A, 435.

11447. Officer of corporation to permit an inspection. Every officer or agent of any corporation, having or keeping an office within this state, who has in his custody or control any book, paper, or document of such corporation, and who refuses to give to a stockholder or member of such corporation, lawfully demanding, during office hours, to inspect or take a copy of the same, or any part thereof, a reasonable opportunity so to do, is guilty of a misdemeanor.

History: En. Sec. 989, Pen. C. 1895; re-en. Sec. 8719, Rev. C. 1907. Cal. Pen. C. Sec. 565.

11448. Officer of railroad company contracting debt in its behalf exceeding its available means. Every officer, agent, or stockholder of any railroad company, who knowingly assents to, or has any agency in contracting any debt by or on behalf of such company, unauthorized by a special law for the purpose, the amount of which debt, with other debts of the company, exceeds its available means for the payment of its debts, in its possession, under its control, and belonging to it at the time such debt is contracted, including its bona fide and available stock subscriptions, and inclusive of its real estate, is guilty of a misdemeanor.

History: En. Sec. 990, Pen. C. 1895; re-en. Sec. 8720, Rev. C. 1907. Cal. Pen. C. Sec. 566.

Cited or applied as section 990, Penal Code, in *In re Wisner*, 36 Mont. 298, 308, 92 Pac. 958.

11449. Debt contracted in violation of the last section not invalid. The last section does not affect the validity of a debt created in violation of its provisions, as against the company.

History: En. Sec. 991, Pen. C. 1895; re-en. Sec. 8721, Rev. C. 1907. Cal. Pen. C. Sec. 567.

11450. Director of a corporation presumed to have knowledge of its affairs. Every director of a corporation or joint-stock association is deemed to possess such a knowledge of the affairs of his corporation as to

enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter.

History: En. Sec. 992, Pen. C. 1895; re-en. Sec. 8722, Rev. C. 1907. Cal. Pen. C. Sec. 568.

11451. Director present at meeting, when presumed to have assented to proceedings. Every director of a corporation or joint-stock association who is present at a meeting of the directors at which any act, proceeding, or omission of such directors in violation of this chapter occurs, is deemed to have concurred therein unless he at the time causes or in writing requires his dissent therefrom to be entered in the minutes of the directors.

History: En. Sec. 993, Pen. C. 1895; re-en. Sec. 8723, Rev. C. 1907. Cal. Pen. C. Sec. 569.

11452. Director absent from meeting, when presumed to have assented to proceedings. Every director of a corporation or joint-stock association, although not present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, is deemed to have concurred therein if the facts constituting such violation appear on the records or proceedings of the board of directors and he remains a director of the same company for six months thereafter and does not within that time cause or in writing require his dissent from such illegality to be entered in the minutes of the directors.

History: En. Sec. 994, Pen. C. 1895; re-en. Sec. 8724, Rev. C. 1907. Cal. Pen. C. Sec. 570.

11453. Foreign corporations. It is no defense to a prosecution for a violation of the provisions of this chapter that the corporation was one created by the laws of another state, government or country, if it was one carrying on business or keeping an office therefor within this state.

History: En. Sec. 995, Pen. C. 1895; re-en. Sec. 8725, Rev. C. 1907. Cal. Pen. C. Sec. 571.

11454. Same. Every foreign corporation doing business in this state contrary to the provisions of sections 6651 to 6658, of the Civil Code, is guilty of a misdemeanor.

History: En. Sec. 996, Pen. C. 1895; re-en. Sec. 8726, Rev. C. 1907.

11455. Agent of foreign corporation. Every person who acts as agent or in any other capacity for a foreign corporation, who has not complied with the provisions of law relating to foreign corporations, is guilty of a misdemeanor.

History: En. Sec. 997, Pen. C. 1895; re-en. Sec. 8727, Rev. C. 1907.

11456. Corporation not complying with laws. Every corporation which fails to comply with the provisions of law relating to corporations, as prescribed in the Civil Code, is guilty of a misdemeanor.

History: En. Sec. 998, Pen. C. 1895; re-en. Sec. 8728, Rev. C. 1907.

11457. Agent of corporation. Every person who acts as an officer, agent or in any other capacity for a corporation which has not complied with the provisions of law, as prescribed in the Civil Code, is guilty of a misdemeanor.

History: En. Sec. 999, Pen. C. 1895; re-en. Sec. 8729, Rev. C. 1907.

11458. Director defined. The term "director," as used in this chapter, embraces any of the persons having by law the direction or management of the affairs of a corporation, by whatever name such persons are described in its charter or known by law.

History: En. Sec. 1000, Pen. C. 1895; re-en. Sec. 8730, Rev. C. 1907. Cal. Pen. C. Sec. 572.

CHAPTER 50.

FRAUDULENT ISSUE OF DOCUMENTS OF TITLE TO MERCHANDISE.

Section 11459. Issuing Fictitious Bills of Lading, etc.

11460. Issuing Fictitious Warehouse Receipts.

11461. Erroneous Bills of Lading or Receipts Issued in Good Faith.

11462. Duplicate Receipts Must Be Marked "Duplicate."

11463. Selling, etc., Property Received for Transportation or Storage.

11459. Issuing fictitious bills of lading, etc. Every person being the master, owner, or agent of any vessel, or officer or agent, of any railroad, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt, or other voucher, by which it appears that any merchandise of any description has been shipped on board any vessel, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt, or voucher, is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

History: En. Sec. 1020, Pen. C. 1895; re-en. Sec. 8731, Rev. C. 1907. Cal. Pen. C. Sec. 577.

11460. Issuing fictitious warehouse receipts. Every person carrying on the business of a warehouseman, wharfinger, or other depository of property, who issues any receipt, bill of lading, or other voucher for any merchandise of any description, which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness, is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

History: En. Sec. 1021, Pen. C. 1895; re-en. Sec. 8732, Rev. C. 1907. Cal. Pen. C. Sec. 578.

11461. Erroneous bills of lading or receipts issued in good faith. No person can be convicted of any offense under the last two sections by reason that the contents of any barrel, box, cask, or other vessel or package mentioned in the bill of lading, receipt, or other voucher, did not correspond with the description given in such instrument of the merchandise received, if such description corresponded substantially with the marks, labels, or brands upon the outside of such vessel, or package, unless it appears that the accused knew such marks, labels, or brands were untrue.

History: En. Sec. 1022, Pen. C. 1895; re-en. Sec. 8733, Rev. C. 1907. Cal. Pen. C. Sec. 579.

11462. Duplicate receipts must be marked "duplicate." Every person mentioned in this chapter, who issues any second or duplicate receipt or voucher, of a kind specified therein, at a time while any former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate" in a plain and legible manner, is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both.

History: En. Sec. 1023, Pen. C. 1895; re-en. Sec. 8734, Rev. C. 1907. Cal. Pen. C. Sec. 580.

11463. Selling, etc., property received for transportation or storage. Every person mentioned in this chapter who sells, hypothecates or pledges any merchandise for which any bill of lading, receipt, or voucher has been issued by him, without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment in the state prison not exceeding five years, or by a fine not exceeding one thousand dollars, or both. The provisions of this section do not apply where the property is demanded or sold under process of law.

History: En. Sec. 1024, Pen. C. 1895; re-en. Sec. 8735, Rev. C. 1907. Cal. Pen. C. Sec. 581.

CHAPTER 51.

MALICIOUS INJURY TO RAILROADS, HIGHWAYS, AND OTHER PROPERTY.

- Section 11464. Injuries to Highways, Private Ways, and Bridges.
 11465. Injuries to Milestones and Guideboards.
 11466. Injuries to Telegraph Lines.
 11467. Taking Water from or Obstructing Canals.
 11468. Interferences With Railroad Property.
 11469. Punishment.
 11470. Acts Causing Death Punished as Murder.
 11471. Crimes Heretofore Committed.
 11472. Remove Waste or Packing from Locomotives or Motors.
 11473. Interference With Electric Lines or Apparatus.

11464. Injuries to highways, private ways, and bridges. Every person who maliciously digs up, removes, displaces, breaks or otherwise injures or destroys any public highway, or any private way laid out by authority of law, or bridge upon such highway or private way, is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both such imprisonment and fine.

History: En. Sec. 1031, Pen. C. 1885; re-en. Sec. 8736, Rev. C. 1907. Cal. Pen. C. Sec. 588. For text treatment of "Malicious Mischief," see Cal. Jur. and 8 R. C. L. 299. What constitutes malicious mischief, see notes in 32 Am. Dec. 662; 128 A. S. R. 163.

11465. Injuries to milestones and guideboards. Every person who maliciously removes or injures any mileboard, post, or stone, or guidepost or any inscription on such, erected upon any highway, is guilty of a misdemeanor.

History: En. Sec. 1032, Pen. C. 1895; re-en. Sec. 8737, Rev. C. 1907. Cal. Pen. C. Sec. 590.

11466. Injuries to telegraph lines. Every person who maliciously takes down, removes, injures or obstructs any line of telegraph, telephone or electric light, or any part thereof, or appurtenance or apparatus connected therewith, or severs any wire thereof, is guilty of a misdemeanor.

History: En. Sec. 1033, Pen. C. 1895; re-en. Sec. 8738, Rev. C. 1907. Cal. Pen. C. Sec. 591.

11467. Taking water from or obstructing canals. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir, used for the purpose of holding or conveying water for manufacturing, agricultural, mining or domestic uses, or who, without like authority, shall raise, lower, or otherwise disturb any gate or other appurtenance thereof used for the control or the measurement of water, or who shall empty or place, or cause to be emptied or placed into any such canal, ditch, flume or reservoir, any rubbish, filth or obstruction to the free flow of the water, is guilty of a misdemeanor.

History: En. Sec. 1034, Pen. C. 1895; re-en. Sec. 8739, Rev. C. 1907. Cal. Pen. C. Sec. 592.

11468. Interferences with railroad property. Every person who, within the state of Montana, wilfully and maliciously either—

1. Burns, breaks, cuts, derails, destroys, displaces, injures, obstructs, removes or places any explosive substance upon, in or under, any track, switch, bridge, culvert, viaduct, roadbed, embankment, reservoir, water-tank, standpipe or appurtenances, station or section-house, coal dock, passenger, mail, baggage, express or freight car, caboose, engine, tender or other rolling-stock, or other appliance, part, structure, or fixture attached to, or used in connection with any operated railway, or any branch thereof, lying wholly or partially within this state, whether operated by steam or other motive power; or by letter or other writing, threatens to do, any of the foregoing acts or things; or,

2. Wrecks, whether by the use of dynamite or other explosive or any other means, any moving train, engine, cars or other rolling-stock of any such railroad or branch; or,

3. By intimidating any member of a train or engine crew, or any passenger, or otherwise stops, holds up, or interrupts the journey of any such train, engine, cars or rolling-stock, of any such railway, or branch thereof, for the purpose of gaining from any person, by any means, any money or other thing of value; shall be deemed guilty of felony, and on conviction be punished by imprisonment in the state prison for a term not less than five years, and which may extend to the term of his natural life.

History: Ap. p. Sec. 1030, Pen. C. 1895; en. Sec. 1, Ch. 24, L. 1905; re-en. Sec. 8740, Rev. C. 1907. Cal. Pen. C. Sec. 587.

11469. Punishment. Any person who wilfully and maliciously attempts to commit any of the acts enumerated in the preceding section shall be deemed guilty of a felony, and punished by imprisonment in the state prison for not less than one year nor more than ten years.

History: En. Sec. 2, Ch. 24, L. 1905; re-en. Sec. 8741, Rev. C. 1907.

11470. Acts causing death punished as murder. If in the commission, or attempts to commit, any of the acts made felonies under section 11468 of these codes the death of any person shall be caused, the person so committing, or attempting to commit said acts or any thereof, shall be deemed guilty of murder in the first degree; and, on conviction thereof, shall suffer death.

History: En. Sec. 3, Ch. 24, L. 1905; re-en. Sec. 8742, Rev. C. 1907.

11471. Crimes heretofore committed. Any act heretofore done of the general nature of any of the acts hereinabove enumerated, which were at the time of their commission, punishable as a crime, under any then existing law of this state, may still be prosecuted and punished under such pre-existing law.

History: En. Sec. 4, Ch. 24, L. 1905; re-en. Sec. 8743, Rev. C. 1907.

11472. Remove waste or packing from locomotives or motors. If any person shall wilfully and maliciously take or remove the waste or packing or brass or brasses from any journal-box or boxes of any locomotive, engine, tender, carriage, coach, car, caboose or truck, used or operated or capable of being used or operated upon any railroad, hoisting engines, threshing machines, pumps or any other machinery, whether the same be operated by steam or electricity, the person so offending shall be guilty of a misdemeanor and on conviction shall be sentenced to pay a fine of not more than one hundred dollars nor less than fifty dollars or by imprisonment in the county jail not more than six months, or both such fine and imprisonment.

History: En. Sec. 1, Ch. 46, L. 1903; re-en. Sec. 8744, Rev. C. 1907.

11473. Interference with electric lines or apparatus. Every person who unlawfully or maliciously takes down, removes, injures, interferes with or obstructs any line or lines erected or maintained for the purpose of transmitting electricity for developing light, heat or power, or any part thereof, or any insulation or crossarm appurtenance or apparatus connected therewith, or severs or in any way interferes with the wire or wires, cable or cables, current or currents thereof, or who attempts to do the same, is punishable by fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year.

History: En. Sec. 1, Ch. 71, L. 1903; re-en. Sec. 8745, Rev. C. 1907. Cal. Pen. C. Sec. 593.

CHAPTER 52.

MALICIOUS MISCHIEF GENERALLY.

- Section 11474. Malicious Injury or Destruction of Property—Punishment.
 11475. Specifications in Following Sections Not Restriction.
 11476. Burning Buildings, etc., Not the Subject of Arson.
 11477. Destruction of Buildings by Explosives—Punishment.
 11478. Use of Automobiles Without Consent of Owners—Punishment.
 11479. Possessing Automobile From Which Number or Marks Have Been Removed or Altered.
 11480. Same—Penalty.
 11481. Malicious Injuries to Freehold.
 11482. Injuring Fences, Building Fires, and Hunting on Premises of Another When Forbidden.
 11483. Injuries to Standing Crops, etc.

- 11484. Removing, Defacing, or Altering Landmarks
- 11485. Destruction of Fence or Enclosure.
- 11486. Destroying or Injuring Jails.
- 11487. Destroying or Injuring Dams, etc.
- 11488. Burning or Injuring Rafts, Setting Adrift Vessels.
- 11489. Obstructing Navigable Rivers.
- 11490. Injuries to United States Surveyors' Monuments.
- 11491. Destroying or Tearing Down Notices.
- 11492. Injuring or Destroying Written Instrument.
- 11493. Opening or Publishing Sealed Letters.
- 11494. Disclosing Contents of Telegraphic Message.
- 11495. Altering Telegraphic Messages.
- 11496. Opening Telegrams.
- 11497. Injuring Works of Art or Improvements.
- 11498. Destroying Works of Literature, etc., in Public Libraries.
- 11499. Breaking or Obstructing Water Pipes, etc.
- 11500. Setting Fire to Timber, etc., Negligently.
- 11501. Setting and Negligent Control of Fires—Punishment.
- 11502. Setting Fire to Timber, etc., Maliciously.
- 11503. Exposing Infected Clothing.
- 11504. Driving Animals on Sidewalk.
- 11505. Malicious Spiking of Sawlogs—Penalty.
- 11506. Defacing Public Buildings.
- 11507. Injury to Trees on Public Lands.

11474. Malicious injury or destruction of property—Punishment.

Every person who maliciously injures or destroys any real or personal property not his own, of the value of fifty dollars or over, in cases otherwise than such as are specified in this code, is guilty of a felony, and upon conviction thereof shall be punished by confinement in the state penitentiary for a term of not less than one year or more than five years, and every person who maliciously injures or destroys any real or personal property not his own of the value of less than fifty dollars, in cases otherwise than as specified in this code is guilty of a misdemeanor.

History: En. Sec. 1050, Pen. C. 1895; re-en. Sec. 8746, Rev. C. 1907; amd. Sec. 1. Ch. 10, Ex. L. 1918. Cal. Pen. C. Sec. 594.

11475. Specifications in following sections not restriction. The specification of the acts enumerated in the following sections of this chapter is not intended to restrict or qualify the interpretation of the preceding section.

History: En. Sec. 1051, Pen. C. 1895; re-en. Sec. 8747, Rev. C. 1907. Cal. Pen. C. Sec. 595.

11476. Burning buildings, etc., not the subject of arson. Every person who wilfully and maliciously burns any bridge exceeding fifty dollars in value, or any building, snowshed or vessel not the subject of arson, or any stack of grain of any kind, or of hay, or any growing or standing grain, grass or tree, or any fence not the property of such person, is punishable by imprisonment in the state prison for not less than one nor more than ten years.

Related sections: 11337, 11426.

History: En. Sec. 1052, Pen. C. 1895; re-en. Sec. 8748, Rev. C. 1907. Cal. Pen. C. Sec. 600.

The malicious destruction of property is

not a crime the commission of which is included in the crime of wilful and malicious burning of property, as defined by this section. State v. Sieff, 54 Mont. 165, 168, 168 Pac. 524.

11477. Destruction of buildings by explosives—Punishment. Any person who shall maliciously, by the explosion of gunpowder, nitroglycerin,

dynamite or any other explosive substance, blow up, destroy, throw down, or injure the whole or any part of any building, house, edifice, or structure, whether used for habitation, lodgement, abode or shelter of human beings, or for any agricultural, industrial, commercial, manufacturing, storage, milling, smelting, refining, transportation, educational, religious, charitable, scientific, library or art purposes, or any public building or structure owned or occupied by the state of Montana, or by any county, city or municipality of the state, or school district, or by the United States government, or any building, house, edifice or structure owned or used by any public utility or public utility corporation or company, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state penitentiary for a term, where not otherwise provided for in this code, of not less than one year and not more than ten years.

History: En. Sec. 1053, Pen. C. 1895; re-en. Sec. 8749, Rev. C. 1907; amd. Sec. 1, Ch. 9, Ex. L. 1918. Cal. Pen. C. Sec. 601.

11478. Use of automobiles without consent of owners—Punishment.

Any chauffeur or other person who, without the consent of the owner, shall take, use, operate, or remove, or cause to be taken, used, operated, or removed from a garage, stable, or other building or place, or from any place or locality on a private or public highway, park or parkway, street, lot or field, alley, enclosure, or space, any automobile or motor vehicle, and operate or drive, or cause the same to be operated or driven, for his own profit, use or purpose, or for the profit, use or purpose of another, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by imprisonment in the state prison not exceeding five years.

History: En Sec. 1, Ch. 27, L. 1915; amd. Sec. 1, Ch. 91, L. 1919.

11479. Possessing automobile from which number or marks have been removed or altered. Every person within this state is hereby prohibited from knowingly buying, selling, receiving, disposing of, or concealing, or having in his possession any automobile, motor car, or motor vehicle from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered, or destroyed, for the purpose of concealment or misrepresenting the identity of said automobile, motor car, or motor vehicle.

History: En. Sec. 1, Ch. 48, L. 1917.

11480. Same—Penalty. Any person violating the provisions of the preceding section, and any person who shall knowingly buy, sell, receive, dispose of or conceal, or have in his possession, any automobile, motor car or motor vehicle from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, for the purpose of concealment or misrepresenting the identity of said automobile, motor car or motor vehicle, shall be guilty of a misdemeanor, and shall be punished by a fine of not more than two hundred dollars, or imprisonment not more than six months, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 48, L. 1917.

11481. Malicious injuries to freehold. Every person who wilfully or maliciously commits any trespass by either—

1. Cutting down, destroying or injuring any kind of wood or timber standing or growing upon the lands of another; or

2. Carrying away any kind of timber or wood lying on such lands; or

3. Maliciously injuring or severing from the freehold of another anything attached thereto or the produce thereof; or

4. Digging, taking or carrying away from any lot situated within the limits of any incorporated city without the license of the owner or legal occupant thereof, any earth, soil, or stone; or

5. Digging, taking or carrying away from any land in any cities of the state, laid down on the map or plan of said cities otherwise recognized or established as a street or alley, avenue or park, without the license of the proper authorities, any earth, soil or stone; or

6. Putting up, fastening, printing or painting upon any property belonging to the state, or to any city, county, town or village, or dedicated to the public or upon any property of any person without license of the owner any notice, advertisement or designation thereof, or any name of any commodity, whether for sale or otherwise, or any picture, sign or device intended to call attention thereto; or

7. Hunting, without permission, upon the enclosed premises of another; or

8. Destroying, defacing or injuring any door, window or other portion of any vacant residence or other building, or maliciously opening any closed door or window of such buildings, or entering therein or on without the consent of the owner, agent or tenant of such premises or by authority of law, is guilty of misdemeanor.

History: Ap. p. Sec. 1054, Pen. C. 1895; Ch. 10, L. 1905; re-en. Sec. 8750, Rev. C. amd. Sec. 1054, Ch. 64, L. 1903; en. Sec. 1, 1907. Cal. Pen. C. Sec. 602.

11482. Injuring fences, building fires, and hunting on premises of another when forbidden. Any person tearing down, breaking, or injuring any fence or other inclosure, for the purpose of entering upon the land or premises of another without the consent of the owner or occupant; any person who shall build a fire upon the land or premises of another within any inclosure, or who shall sever from such land or premises any tree, grass, or other product thereof, or shall take therefrom anything attached or appurtenant thereto, without the consent of the owner or occupant; and any person who shall hunt upon any inclosed land or premises where there is posted in a conspicuous place a sign or warning reading, "No hunting allowed on these premises," or a sign or warning reading "No trespassing allowed on these premises," without the consent of the owner, shall be guilty of a misdemeanor and shall be punishable by a fine of not less than ten dollars, nor more than five hundred dollars, or imprisonment not exceeding six months in the county jail, or by both such fine and imprisonment; and shall also be liable to the person injured for all damages occasioned thereby.

History: En. Sec. 1, Ch. 36, L. 1915

11483. Injuries to standing crops, etc. Every person who maliciously injures or destroys any standing crops, grain, cultivated fruits or vege-

tables, the property of another, in any case for which a punishment is not prescribed by these codes, is guilty of a misdemeanor.

History: En. Sec. 1055, Pen. C. 1895; re-en. Sec. 8751, Rev. C. 1907. Cal. Pen. C. Sec. 604.

11484. Removing, defacing, or altering landmarks. Every person who either—

1. Maliciously removes any monument erected for the purpose of designating any point in the boundary of any lot or tract of land; or,

2. Wilfully or maliciously defaces or alters the marks upon any such monument; or,

3. Maliciously cuts down or removes any tree upon which any such marks have been made for such purpose, with intent to destroy such marks, is guilty of a misdemeanor.

History: En. Sec. 1056, Pen. C. 1895; re-en. Sec. 8752, Rev. C. 1907. Cal. Pen. C. Sec. 605.

11485. Destruction of fence or enclosure. Every person who wilfully and maliciously cuts, tears down, removes, or in any other manner injures or destroys any fence or other enclosure of lands, other than public, belonging to another, is guilty of a misdemeanor, and upon conviction is punishable by a fine not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days or more than six months, or by both such fine and imprisonment.

History: En. Sec. 1, Ch. 41, L. 1903; re-en. Sec. 8753, Rev. C. 1907.

11486. Destroying or injuring jails. Every person who wilfully and intentionally breaks down, pulls down, or otherwise destroys or injures any public jail or other place of confinement, is punishable by fine not exceeding ten thousand dollars, or by imprisonment in the state prison not exceeding five years.

History: En. Sec. 148, p. 214, Bannack 1887; amd. Sec. 1057, Pen. C. 1895; re-en. Stat.; re-en. Sec. 177, p. 310, Cod. Stat. Sec. 8754, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 177, 4th Div. Rev. Stat. 606.
1879; re-en. Sec. 220, 4th Div. Comp. Stat.

11487. Destroying or injuring dams, etc. Every person who wilfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir or other structure erected to create hydraulic power, or to store or to conduct water for mining, manufacturing, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or wilfully or maliciously makes or causes to be made any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same, is punishable by a fine not less than one hundred dollars, or by imprisonment in the county jail not exceeding two years, or both.

History: En. Sec. 147, p. 214, Bannack 1887; amd. Sec. 1058, Pen. C. 1895; re-en. Stat.; re-en. Sec. 176, p. 310, Cod. Stat. Sec. 8755, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 176, 4th Div. Rev. Stat. 607.
1879; re-en. Sec. 219, 4th Div. Comp. Stat.

11488. Burning or injuring rafts, setting adrift vessels. Every person who wilfully and maliciously burns, injures or destroys any pile or raft

of wood, plankboards, or other lumber, or any part thereof, or cuts loose or sets adrift any such raft or part thereof, or cuts, breaks, injures, sinks, or sets adrift any vessel or boat, the property of another, is punishable by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or both.

History: En. Sec. 146, p. 214, Bannack 1887; amd. Sec. 1059, Pen. C. 1895; re-en. Stat.; re-en. Sec. 175, p. 310, Cod. Stat. Sec. 8756, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 175, 4th Div. Rev. Stat. 608. 1879; re-en. Sec. 218, 4th Div. Comp. Stat.

11489. Obstructing navigable rivers. Every person who unlawfully obstructs the navigation of any navigable stream, is guilty of a misdemeanor.

History: En. Sec. 1060, Pen. C. 1895; re-en. Sec. 8757, Rev. C. 1907. Cal. Pen. C. Sec. 611.

11490. Injuries to United States surveyors' monuments. Every person who wilfully injures, defaces or removes any monument erected, or marked or used by the surveyors of the United States to designate a point or corner in a survey under authority of the United States is guilty of a misdemeanor.

History: En. Sec. 1061, Pen. C. 1895; re-en. Sec. 8758, Rev. C. 1907. Cal. Pen. C. Sec. 615.

11491. Destroying or tearing down notices. Every person who intentionally—

1. Defaces, obliterates, tears down, or destroys any copy or transcript, or extract from or of any law of the United States or of this state, or any proclamation, advertisement or notification set up at any place in this state by authority of any law of the United States or this state, or by order of any court, before the expiration of the time for which the same was to remain set up; or,

2. Defaces, obliterates, tears or destroys any notice placed or posted on a mining claim, or removes or destroys any stake or monument placed thereon to identify it,
is punishable by imprisonment in the county jail not exceeding three months or by a fine not exceeding one hundred dollars, or both.

History: En. Sec. 1062, Pen. C. 1895; re-en. Sec. 8759, Rev. C. 1907. Cal. Pen. C. Sec. 616.

11492. Injuring or destroying written instrument. Every person who maliciously mutilates, tears, defaces, obliterates or destroys any written instrument the property of another, the false making of which would be forgery, is punishable by imprisonment in the state prison not less than one nor more than five years.

History: En. Sec. 1063, Pen. C. 1895; re-en. Sec. 8760, Rev. C. 1907. Cal. Pen. C. Sec. 617.

11493. Opening or publishing sealed letters. Every person who wilfully opens or reads, or causes to be read any sealed letter not addressed to himself, without being authorized so to do either by the writer of such letter or by the person to whom it is addressed, and every person who, without the like authority, publishes any of the contents of such letter,

knowing the same to have been unlawfully opened, is guilty of a misdemeanor.

History: En. Sec. 116, p. 205, Bannack 1887; amd. Sec. 1064, Pen. C. 1895; re-en. Stat.; re-en. Sec. 129, p. 298, Cod. Stat. Sec. 8761, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 129, 4th Div. Rev. Stat. 618. 1879; re-en. Sec. 138, 4th Div. Comp. Stat.

11494. Disclosing contents of telegraphic message. Every person who wilfully discloses the contents of a telegraphic message, or any part thereof, addressed to another person without the permission of such person, unless directed so to do by the lawful order of a court, is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both fine and imprisonment.

History: En. Sec. 1065, Pen. C. 1895; re-en. Sec. 8762, Rev. C. 1907. Cal. Pen. C. Sec. 619.

11495. Altering telegraphic messages. Every person who wilfully alters the purport, effect, or meaning of a telegraphic message to the injury of another, is punishable as provided in the preceding section.

History: En. Sec. 1066, Pen. C. 1895; re-en. Sec. 8763, Rev. C. 1907. Cal. Pen. C. Sec. 620.

11496. Opening telegrams. Every person not connected with any telegraph office who, without the authority or the consent of the person to whom the same may be directed, wilfully opens any sealed envelope inclosing a telegraphic message and addressed to another person, with the purpose of learning the contents of such message, or who fraudulently represents another person and thereby procures to be delivered to himself any telegraphic message addressed to such person, with the intent to use, destroy, or detain the same from the person or persons entitled to receive such message, is punishable as provided in section 11494 of these codes.

History: En. Sec. 1067, Pen. C. 1895; re-en. Sec. 8764, Rev. C. 1907. Cal. Pen. C. Sec. 621.

11497. Injuring works of art or improvements. Every person, not the owner thereof, who wilfully injures, disfigures, or destroys any monument, work of art, or useful or ornamental improvement within the limits of any village, town or city, or any shade tree or ornamental plant growing therein, whether situated upon private ground or on any street, sidewalk, or public park or place, is guilty of a misdemeanor.

History: En. Sec. 1068, Pen. C. 1895; re-en. Sec. 8765, Rev. C. 1907. Cal. Pen. C. Sec. 622.

An illustration is found in this section of the frequent legislative use of the term

"city or town" without any definite prefix, but under circumstances which would render it absurd to hold that only incorporated cities and towns are meant. State ex rel. Powers v. Dale, 47 Mont. 227, 230, 131 Pac. 670; Ann. Cas. 1914D, 227.

11498. Destroying works of literature, etc., in public libraries. Every person who maliciously cuts, tears, defaces, breaks, or injures any book, map, chart, picture, engraving, statue, coin, model, apparatus, or other work of literature, art or mechanics, or object of curiosity, deposited in

any public library, gallery, museum, collection, fair, or exhibition, is guilty of felony.

History: En. Sec. 1069, Pen. C. 1895; re-en. Sec. 8766, Rev. C. 1907. Cal. Pen. C. Sec. 623.

11499. Breaking or obstructing water pipes, etc. Every person who wilfully breaks, digs up, obstructs, or injures any pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenances or appendages therewith connected, is guilty of a misdemeanor.

History: En. Sec. 1070, Pen. C. 1895; re-en. Sec. 8767, Rev. C. 1907. Cal. Pen. C. Sec. 624.

11500. Setting fire to timber, etc., negligently. Every person who carelessly sets fire to any timber, woodland or grass, except for useful or necessary purposes, or who at any time makes a campfire, or lights a fire for any purposes whatever without taking sufficient steps to secure the same from spreading from the immediate locality where it is used, or fails to extinguish such fire before leaving it, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding two thousand dollars, or both.

History: En. Sec. 178, p. 310, Cod. Stat. 1871; re-en. Sec. 178, 4th Div. Rev. Stat. 1879; amd. Sec. 1, p. 48, L. 1881; re-en. Sec. 221, 4th Div. Comp. Stat. 1887; amd. Sec. 1071, Pen. C. 1895; re-en. Sec. 8768, Rev. C. 1907.

11501. Setting and negligent control of fires—Punishment. Every person who shall negligently or carelessly set on fire, or cause to be set on fire any woods, timber, prairie, or other combustible material, whether on his own land or not, by means whereby the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands, or lands occupied by him, to extend beyond the limits thereof, shall be guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the county jail for not less than one month, nor more than six months, or by both such fine and imprisonment.

History: En. Sec. 1, Ch. 13, Ex. L. 1918.

11502. Setting fire to timber, etc., maliciously. Every person who wantonly or designedly sets fire to any timber, woodland or grass, or maliciously fails to extinguish a fire after making the same for a necessary purpose, before leaving it, is punishable by imprisonment in the state prison not exceeding five years, or by fine not exceeding five thousand dollars, or both.

History: En. Sec. 179, p. 311, Cod. Stat. 1871; re-en. Sec. 179, 4th Div. Rev. Stat. 1879; amd. Sec. 2, p. 49, L. 1881; re-en. Sec. 222, 4th Div. Comp. Stat. 1887; amd. Sec. 1072, Pen. C. 1895; re-en. Sec. 8769, Rev. C. 1907.

11503. Exposing infected clothing or person. Every person who exposes any clothing or person infected with the smallpox, or other contagious disease, with intent to cause the spread of such disease, is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 1073, Pen. C. 1895; re-en. Sec. 8770, Rev. C. 1907. other to contagious or infectious disease, see notes in Ann. Cas. 1912B, 64; 19 L. R. A. 725.

Criminal liability of person exposing an-

11504. Driving animals on sidewalk. Every person who, wilfully and without authority, drives any team, vehicle or animal along or upon a sidewalk in a town or city, is punishable by imprisonment in the county jail not exceeding one month, or by a fine not exceeding fifty dollars, or both.

History: En. Sec. 1074, Pen. C. 1895; re-en. Sec. 8771, Rev. C. 1907.

An illustration is found in this section of the frequent legislative use of the term "city or town" without any definite prefix,

but under circumstances which would render it absurd to hold that only incorporated cities and towns are meant. State ex rel. Powers v. Dale, 47 Mont. 227, 230, 131 Pac. 670, Ann. Cas. 1914D, 227.

11505. Malicious spiking of sawlogs—Penalty. It shall be unlawful for any person to maliciously drive, place or imbed any spike, nail or other metallic substance, stone or rock in any sawlogs intended for manufacture into lumber or other timber products, and any person violating the provisions of this act shall be guilty of a felony and punishable by imprisonment in the state prison not less than one nor more than five years, or by fine not less than one hundred dollars nor more than one thousand dollars, or by both fine and imprisonment.

History: En. Sec. 1, Ch. 66, L. 1917. Cal. Pen. C. Sec. 593a.

11506. Defacing public buildings. Every person who wilfully breaks, defaces or otherwise injures any church, schoolhouse or other public building, or any part thereof, or appurtenance thereto, or the windows or doors of the same, or any book, furniture, ornament or musical instrument or other chattel therein used, is guilty of a misdemeanor.

History: En. Sec. 1075, Pen. C. 1895; re-en. Sec. 8772, Rev. C. 1907.

11507. Injury to trees on public lands. Every person who commits a trespass on or any injury to any state lands or the improvements thereon, or who, without the proper authority, cuts, fells, girdles, injures or destroys any trees or timber upon any of the school, university or other state lands, or removes or attempts to remove the same, or knowingly purchases or receives such trees or timber, or advises the removal thereof, is guilty of a misdemeanor, and is also liable to the state for three times the value of said trees or timber, or lumber into which the same are converted. All fines collected and all moneys recovered by virtue of this section must be paid into the school fund of the state.

History: Ap. p. Sec. 1, p. 256, L. 1891; en. Sec. 1076, Pen. C. 1895; re-en. Sec. 8773, Rev. C. 1907.

CHAPTER 53.

CRUELTY TO ANIMALS.

- Section 11508. Overdriving Animals.**
 11509. Abandonment of Disabled Animals.
 11510. Failure to Provide Proper Food and Drink to Impounded Animals.
 11511. Carrying an Animal in a Cruel Manner.
 11512. Poisoning Animals.
 11513. Keeping Cows in Unhealthy Places.
 11514. Promoting Fights Between Animals.
 11515. Killing, Maiming, or Poisoning Livestock.

11508. Overdriving animals. Every person who overdrives or overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or

kills any animal, whether wild or tame, and whether belonging to himself or another, or deprives any animal of necessary food or drink, or neglects or refuses to furnish it such food or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully instigates or in any way engages in any act of cruelty to any animal, is guilty of a misdemeanor.

History: Ap. p. Sec. 144, p. 213, Bannack Stat.; re-en. Sec. 172, p. 309, Cod. Stat. 1871; re-en. Sec. 172, 4th Div. Rev. Stat. 1879; amd. Sec. 1, p. 2, L. 1881; re-en. Sec. 215, 4th Div. Comp. Stat. 1887; en. Sec. 1090, Pen. C. 1895; re-en. Sec. 8774, Rev. C. 1907. Cal. Pen. C. Sec. 597.

Constitutionality of statute or ordinance for prevention of cruelty to animals, see notes in L. R. A. 1916A, 951; 1 Ann. Cas. 930.

Malice or wilfulness as ingredient of the offense of abusing animals, see note in 41 L. R. A. (N. S.) 433.

11509. Abandonment of disabled animals. Every person being the owner, or in possession or having charge or custody of a maimed, diseased or infirm animal, who abandons and leaves such animal to die in the street, highway or public place, is guilty of a misdemeanor and such animal may be killed by any sheriff or peace officer in a humane manner, and the owner shall be liable for the necessary care of such animal while living and for the cost of disposing of the carcass.

History: Ap. p. Sec. 1091, Pen. C. 1895; en. Sec. 1, Ch. 35, L. 1905; re-en. Sec. 8775, Rev. C. 1907. Cal. Pen. C. Sec. 597f.

11510. Failure to provide proper food and drink to impounded animals. Every person who has impounded or confined any animal and refuses and neglects to supply such animal, during its confinement, with sufficient food, shelter and water, is punishable by imprisonment in the county jail not exceeding thirty days, or by a fine not exceeding one hundred dollars; or both.

History: En. Sec. 1092, Pen. C. 1895; re-en. Sec. 8776, Rev. C. 1907. Cal. Pen. C. Sec. 597e.

11511. Carrying an animal in a cruel manner. Every person who carries, or causes to be carried, in or upon any car, vessel or vehicle, or otherwise, any animal in a cruel manner, or so as to produce torture, is guilty of a misdemeanor.

History: En. Sec. 1093, Pen. C. 1895; re-en. Sec. 8777, Rev. C. 1907. Cal. Pen. C. Sec. 597a.

11512. Poisoning animals. Every person who wilfully administers any poison to an animal the property of another or maliciously exposes any poisonous substance with the intent that the same shall be taken or swallowed by any such animal is punishable by imprisonment in the state prison not exceeding three years or in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both fine and imprisonment.

History: En. Sec. 143, p. 213, Bannack Stat.; re-en. Sec. 171, p. 309, Cod. Stat. 1871; re-en. Sec. 171, 4th Div. Rev. Stat. 1879; re-en. Sec. 214, 4th Div. Comp. Stat. 1887; amd. Sec. 1094, Pen. C. 1895; re-en. Sec. 8778, Rev. C. 1907. Cal. Pen. C. Sec. 596.

11513. Keeping cows in unhealthy places. Every person who keeps a cow or any animal for the production of milk in a crowded or unhealthy

place or in a diseased condition, or feeds such cow or animal upon any food that produces impure or unwholesome milk, is punishable by imprisonment in the county jail not exceeding three months or by fine not exceeding two hundred dollars, or both.

History: En. Sec. 1095, Pen. C. 1895; re-en. Sec. 8779, Rev. C. 1907.

11514. Promoting fights between animals. Every person who instigates, promotes or carries on, or does any act as principal, assistant, referee or umpire, or is a witness of or in any way aids in the furtherance of any fight between cocks or other birds, or dogs, bulls, bears, or other animals premeditated by any person owning or having custody of such birds or animals, is punishable by imprisonment in the county jail not exceeding three months or by fine not exceeding two hundred dollars, or both.

History: En. Sec. 1096, Pen. C. 1895; re-en. Sec. 8780, Rev. C. 1907. Cal. Pen. C. Sec. 597b.

11515. Killing, maiming, or poisoning livestock. Every person who wilfully and maliciously kills or maims any livestock of whatsoever kind, character or description, not his own, by whatsoever means, or who wilfully and maliciously places upon the public ranges or any other lands except his own enclosed tract or tracts, any poison, poisonous substance, or other thing known to be injurious or harmful, or likely to produce the death of any livestock of whatsoever kind, character or description, not his own, is guilty of a felony, and upon conviction shall be punished by not less than one nor more than ten years imprisonment in the state prison. This act is not intended to prevent or restrict the right of any person to use poison in carcasses or bait on the public range, for the purpose of poisoning coyotes, wolves or other animals destructive to livestock.

History: En. Sec. 1, Ch. 37, L. 1903; re-en. Sec. 8781, Rev. C. 1907. Whether wounding of animals is an indictable offense, see note in 72 Am. Dec. 357.

CHAPTER 54.

MISCELLANEOUS OFFENSES.

- Section 11516. Neglect or Postponement of Telegraphic Messages.
 11517. Employee Using Information From Messages.
 11518. Clandestinely Learning the Contents of a Telegram.
 11519. Bribing Telegraphic Operator.
 11520. Aiding Apprentices to Run Away or Harboring Them.
 11521. Vagrants.
 11522. Fortune Telling, etc., Forbidden.
 11523. Advertising as a Fortune Teller Forbidden.
 11524. Same—Penalty for Newspapers Accepting Advertisement.
 11525. Issuing or Circulating Paper Money.
 11526. Officers of Fire Departments Issuing False Certificates of Exemption.
 11527. Abuse of School Teachers.
 11528. Leaving Gate of an Enclosure Open.
 11529. Obstructing Ford Near Ferry.
 11530. Firing Firearms.
 11531. Ditch Overflowing on Highway.
 11532. Removing Skin From Animal.
 11533. Scabby Sheep.
 11534. Bring Infected Animals Into State.
 11535. Disobeying Orders of State Veterinary Surgeon.
 11536. Receiving and Transporting Diseased Sheep.
 11537. Moving Diseased Sheep.

- 11538. Importing Diseased Cattle Into State.
- 11539. Receiving or Transporting Diseased Cattle.
- 11540. Obstructing Veterinary Surgeon, etc.
- 11541. Selling Horses, etc., at Auction.
- 11542. Branding Animals Driven Through the State.
- 11543. Driven Stock to Be Branded.
- 11544. Road Brand.
- 11545. Sheep Brands.
- 11546. Penalties.
- 11547. Duty of Officers.
- 11548. Fines, How Disposed of.
- 11549. Driving Cattle From Customary Range Forbidden.
- 11550. Abandonment of Sheep by Herder—Penalty.
- 11551. Taking Up or Restraining Horses, etc., Without Owner's Consent—Penalty.
- 11552. Dogging Livestock.
- 11553. Branding Cattle Running at Large.
- 11554. Prohibiting Sash or Frying-pan Brand.
- 11555. Driving Cattle on Railroad.
- 11556. Diseased Animals.
- 11557. Unlawful and Dangerous Fences.
- 11558. Wearing Certain Uniforms Prohibited.
- 11559. Unlawful Entries in Races.
- 11560. Name of Racehorse.
- 11561. Desecration of Flag.
- 11562. Meaning of Term "Flag."
- 11563. Exceptions.
- 11564. Advertising to Procure Divorce Forbidden.
- 11565. Use of Firearms by Children Under the Age of Fourteen Years Prohibited.
- 11566. Liability of Parent or Guardian.
- 11567. Exhibition of Pictures of Crime Prohibited.
- 11568. Stealing Rides Upon Cars or Locomotives.
- 11569. Stealing Rides on Trucks, Rods, or Brakebeams.
- 11570. Trainmen Constituted Peace Officers.
- 11571. Wearing Mask or Disguise.
- 11572. Prison-made Goods to Be Stamped.
- 11573. Same—Penalty for Violation of Act.
- 11574. Permitting Logs to Accumulate Along Shore Forbidden.
- 11575. Same—Control of Logs on Navigable Lake.
- 11576. Penalty for Violation of Act.
- 11577. Discrimination by Hospitals Forbidden.
- 11578. Penalty for Violation of Act.
- 11579. Defrauding Inn and Hotel-keepers, etc.—Penalty.
- 11580. Penalty for Obstructing Mining Shafts, etc.

11516. Neglect or postponement of telegraphic messages. Every agent, operator, or employee of any telegraph office who wilfully refuses or neglects to send any message received at such office for transmission, or wilfully postpones the same out of its order, or wilfully refuses or neglects to deliver any message received by telegraph, is guilty of a misdemeanor. Nothing herein contained shall be construed to require any message to be received, transmitted or delivered, unless the charges thereon have been paid or tendered, or to require the sending, receiving, or delivering of any message counseling, aiding, abetting, or encouraging treason against the government of the United States or of this state, or other resistance to lawful authority, or any message calculated to further any plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or facilitate the escape of any criminal or person accused of crime.

History: En. Sec. 1150, Pen. C. 1895;
re-en. Sec. 3823, Rev. C. 1907. Cal. Pen. C.
Sec. 638.

Criminal liability for agents' failure to transmit telegram, see note in 41 L. R. A. 660.

11517. Employee using information from messages. Every agent, operator, or employee of any telegraph office, who in any way uses or appropriates any information derived by him from any private message passing through his hands, and addressed to another person, or in any other manner acquired by him by reason of his trust as such agent, operator, or employee, or trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn, the same to his own account, profit, or advantage, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both fine and imprisonment.

History: En. Sec. 1151, Pen. C. 1895; re-en. Sec. 8824, Rev. C. 1907. Cal. Pen. C. Sec. 639.

Cited or applied as section 8824, Revised Codes, in *Lahood v. Continental Tel. Co.*, 52 Mont. 313, 319, 157 Pac. 639.

11518. Clandestinely learning the contents of a telegram. Every person who, by means of any machine, instrument, or contrivance, or in any other manner, wilfully and fraudulently reads, or attempts to read, any message, or learn the contents thereof, while the same is being sent over any telegraph line, or wilfully and fraudulently, or clandestinely, learns or attempts to learn the contents or meaning of any message, whilst the same is in any telegraph office, or is being received thereat or sent therefrom, or who uses or attempts to use, or communicates to others, any information so obtained, is punishable as provided in the preceding section.

History: En. Sec. 1152, Pen. C. 1895; re-en. Sec. 8825, Rev. C. 1907. Cal. Pen. C. Sec. 640.

11519. Bribing telegraphic operator. Every person who, by the payment or promise of any bribe, inducement, or reward, procures or attempts to procure any telegraph agent, operator or employee to disclose any private message, or the contents, purport, substance, or meaning thereof, or offers to any such agent, operator, or employee any bribe, compensation or reward, for the disclosure of any private information received by him by reason of his trust as such agent, operator, or employee or uses or attempts to use any such information so obtained, is punishable as provided in section 11517.

History: En. Sec. 1153, Pen. C. 1895; re-en. Sec. 8826, Rev. C. 1907. Cal. Pen. C. Sec. 641.

11520. Aiding apprentices to run away or harboring them. Every person who wilfully and knowingly aids, assists or encourages to run away, or who harbors or conceals any apprentice or person bound or held to service or labor, is guilty of a misdemeanor.

History: En. Sec. 1154, Pen. C. 1895; re-en. Sec. 8827, Rev. C. 1907. Cal. Pen. C. Sec. 646.

11521. Vagrants. 1. Every person (except an Indian) without visible means of living, who has the physical ability to work, and who does not seek employment, or labor when employment is offered him;

2. Every healthy beggar who solicits alms as a business;

3. Every person who roams about from place to place without any lawful business;

4. Every idle or dissolute person, or associate of known thieves, who wanders about the streets at late or unusual hours of the night, or who lodges in any barn, shed, outhouse, vessel, or place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof;

5. Every lewd and dissolute person, who lives in and about houses of ill-fame, or who lives with or upon the earnings of a woman of bad repute; and,

6. Every common prostitute and common drunkard, is a vagrant, and punishable by imprisonment in the county jail not exceeding ninety days.

Related section: 11140.

History: Ap. p. Sec. 1, p. 81, L. 1881; re-en. Sec. 242, 4th Div. Comp. Stat. 1887; en. Sec. 1155, Pen. C. 1895; re-en. Sec. 8828, Rev. C. 1907. Cal. Pen. C. Sec. 647.

A prosecution for vagrancy in a police court must be instituted and conducted in

the name of the state. State ex rel. City of Butte v. District Court, 37 Mont. 202, 204, 95 Pac. 841.

Constitutionality of vagrancy statutes, see note in 21 Ann. Cas. 478.

Criminal liability of children for vagrancy, see note in 36 L. R. A. 207.

11522. Fortune telling, etc., forbidden. Any person or persons who shall advertise or otherwise represent, pretend, or profess to be a fortune teller, clairvoyant, palmist or astrologist, or who shall, whether designating or representing himself or herself to be such or not, advertise or otherwise represent, pretend or profess to be able to fortell events with reference to any manner of business transaction, courtship, marriage or divorce, or to be able to locate lost or stolen property, friends or relatives, or to locate or find mines, veins, ores, metals or subterannean waters, or who shall pretend or represent himself or herself to be able to tell or read, or predict, the fortune, future, present or past condition of any person or persons by means of fortune telling, clairvoyancy, palmistry or astrology, or any other means or device or shall pretend or represent himself or herself to be able to, or promise to affect the condition or future, or to bring about or effect the desires or fortune of any person or persons whomsoever, by such or any of such means or methods, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or by imprisonment in the county jail for a period of not less than one nor more than three months, or by both such fine and imprisonment; provided, however, that nothing in this act shall be construed to prohibit or restrict investigation and experiment in the mental science, psychical research, theatrical exhibitions, and other public performance from the public stage.

History: En Sec. 1, Ch. 102, L. 1909.

Criminal liability for fortune-telling, see

notes in Ann. Cas. 1914A, 900; 43 L. R. A. (N. S.) 203.

11523. Advertising as a fortune teller forbidden. Any person who publishes, distributes, circulates, or causes to be published, distributed or circulated any dodgers, circulars, pamphlets or advertisements holding out or advertising any person as a fortune teller, clairvoyant, palmist or astrologist or as being able to do any of the acts or things prohibited by

the preceding section, shall be guilty of a misdemeanor and punished by a fine of not less than ten nor more than one hundred dollars.

History: En. Sec. 2, Ch. 102, L. 1909. of fortune-telling, see note in Ann. Cas. 1916A, 905.
Prohibitory statutes against advertising

11524. Same—Penalty for newspapers accepting advertisement. The proprietor, editor, manager or any other person in charge of any newspaper or printing establishment, publishing or advertising any of the things prohibited by this act shall be guilty of a violation of the provisions of the preceding section.

History: En. Sec. 3, Ch. 102, L. 1909.

11525. Issuing or circulating paper money. Every person who makes, issues, or puts in circulation, any bill, check, ticket, certificate, promissory note, or the paper of any bank, to circulate as money, except as authorized by the laws of the United States, for the first offense is guilty of a misdemeanor, and for each and every subsequent offense is guilty of felony.

Related section: 11531. re-en. Sec. 8829, Rev. C. 1907. Cal. Pen. C. Sec. 648.
History: En. Sec. 1156, Pen. C. 1895;

11526. Officers of fire departments issuing false certificates of exemption. Every officer of a fire department who wilfully issues, or causes to be issued, any certificate of exemption to a person not entitled thereto, is guilty of a misdemeanor.

History: En. Sec. 1157, Pen. C. 1895; re-en. Sec. 8830, Rev. C. 1907. Cal. Pen. C. Sec. 649.

11527. Abuse of school teachers. Every parent, guardian, or other person, who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil thereof, is guilty of a misdemeanor.

Related section: 1082. re-en. Sec. 8831, Rev. C. 1907. Cal. Pen. C. Sec. 653b.
History: En. Sec. 1158, Pen. C. 1895;

11528. Leaving gate of an enclosure open. Every person who wilfully leaves open a gate leading in or out of any enclosed premises, whether enclosed by a lawful fence or not, is punishable by a fine not exceeding twenty-five dollars.

History: En. Sec. 10, p. 48, L. 1881; amd. Sec. 1159, Pen. C. 1895; re-en. Sec. re-en. Sec. 275, 4th Div. Comp. Stat. 1887; 8832, Rev. C. 1907.

11529. Obstructing ford near ferry. Every person who owns and conducts a ferry, and who obstructs any ford at or near his ferry, or excludes or prevents the public from the free use of such ford, and who in any manner obstructs such ford, is punishable by a fine not exceeding one hundred dollars.

History: Ap. p. Sec. 184, p. 312, Cod. Stat. 1887; en. Sec. 1160, Pen. C. 1895; Stat. 1871; re-en. Sec. 184, 4th Div. Rev. re-en. Sec. 8833, Rev. C. 1907.
Stat. 1879; re-en. Sec. 227, 4th Div. Comp.

11530. Firing firearms. Every person who wilfully shoots or fires off, a gun, pistol, or any firearm, within the limits of any town or city, or

of any private enclosure which contains a dwelling-house, is punishable by a fine not exceeding twenty-five dollars.

Related section: 11299.

History: En. Secs. 1, 2, p. 46, Ex. L. 1873; re-en. Sec. 185, 4th Div. Rev. Stat. 1879; re-en. Sec. 228, 4th Div. Comp. Stat. 1887; amd. Sec. 1161, Pen. C. 1895; re-en. Sec. 8834, Rev. C. 1907.

of the frequent legislative use of the term "city or town" without any definite prefix, but under circumstances which would render it absurd to hold that only incorporated cities and towns are meant. State ex rel. Powers v. Dale, 47 Mont. 227, 230, 131 Pac. 670, Ann. Cas. 1914D, 227.

An illustration is found in this section

11531. Ditch overflowing on highway. Every person who owns a ditch or flume, and allows the water therein to overrun the side and run into a public highway, or in or upon the property of another, is punishable by a fine not exceeding one hundred dollars.

Related sections: 1732, 1738.

History: En. Sec. 1162, Pen. C. 1895; re-en. Sec. 8835, Rev. C. 1907.

11532. Removing skin from animal. Every person who removes the skin from an animal and leaves the carcass within one-quarter of a mile of a dwelling, is punishable by a fine not exceeding twenty-five dollars.

History: En. Sec. 1168, Pen. C. 1895; re-en. Sec. 8841, Rev. C. 1907.

11533. Scabby sheep. Every person who removes from one point to another in any of the counties of this state, or from one county to another, any scabby sheep, or any sheep that have been scabby within one year, without the written certificate of the sheep inspector, or the written consent of all the sheep owners or managers along the route, and in the vicinity of the proposed location, is punishable by a fine not exceeding one thousand dollars. This section does not apply to scabby sheep imported into this state and against which quarantine has been declared.

History: En. Sec. 1169, Pen. C. 1895; re-en. Sec. 8842, Rev. C. 1907.

11534. Bringing infected animals into state. Every person who brings into this state sheep infected with scab or other infectious disease, or any horses, mules, asses or cattle infected with any contagious disease, is punishable by a fine not exceeding five hundred dollars.

History: En. Sec. 1170, Pen. C. 1895; re-en. Sec. 8843, Rev. C. 1907.

11535. Disobeying orders of state veterinary surgeon. Every person who fails to comply with or disregards any lawful order or direction made by the state veterinary surgeon, or deputy, or deputy sheep inspector, under the provisions of the Political Code, concerning scab and other contagious diseases among sheep, or to prevent the spread of disease among cattle, is punishable by a fine not exceeding five hundred dollars.

History: En. Sec. 1171, Pen. C. 1895; re-en. Sec. 8844, Rev. C. 1907.

11536. Receiving and transporting diseased sheep. Every person who, after the publication of the proclamation of the governor of this state prohibiting the importation of diseased sheep into this state, knowingly receives any such sheep from any of the prohibited districts, or transports the same within the limits of the state, is punishable by a fine not exceeding five hundred dollars.

History: En. Sec. 1172, Pen. C. 1895; re-en. Sec. 8845, Rev. C. 1907.

11537. Moving diseased sheep. Every person in charge of sheep being shipped into this state, against which quarantine has been declared, as specified in the last preceding section, and fails to notify the deputy inspector of the county in which such sheep are brought, or allows any such sheep to pass over or upon any public highway, or upon the ranges occupied by other sheep, or within five miles of any corral in which sheep are regularly corralled, before such sheep are inspected as provided by law, is punishable by a fine not exceeding five hundred dollars.

History: En. Sec. 1173, Pen. C. 1895; re-en. Sec. 8846, Rev. C. 1907.

11538. Importing diseased cattle into state. Every person who imports into this state any cattle, horses, mules, or asses, after the governor has made proclamation holding in quarantine for the purpose of inspection for contagious or infectious diseases, such animals, and allows the same or any of them to leave the place of their first arrival in this state, until they have been examined by the state veterinary surgeon, and a certificate has been obtained therefrom that such animals are free from disease, or permits any such animals to run at large, or to be removed, or to escape before such certificate has been received, is punishable by a fine not exceeding five hundred dollars. This section does not apply to any animals driven in harness, or under yoke, or ridden by their owners into this state.

History: En. Sec. 1174, Pen. C. 1895; re-en. Sec. 8847, Rev. C. 1907.

11539. Receiving or transporting diseased cattle. Every person who, after the publication of such proclamation, knowingly receives or transports within the limits of this state, any animal mentioned in the preceding section, before the certificate mentioned therein has been given, is punishable by a fine not exceeding ten thousand dollars.

History: En. Sec. 1175, Pen. C. 1895; re-en. Sec. 8848, Rev. C. 1907.

11540. Obstructing veterinary surgeon, etc. Every person who owns or has the custody of any cattle, horses, mules or asses infected with a contagious disease, and fails to immediately report the same to the state veterinary surgeon, or conceals the existence of such disease, or attempts so to do, or wilfully obstructs or resists the said veterinary surgeon in the discharge of his duty as provided by law, or sells, gives away or uses the meat or milk, or removes the skin or any part of such animal, is punishable by a fine not exceeding five hundred dollars.

History: En. Sec. 1176, Pen. C. 1895; re-en. Sec. 8849, Rev. C. 1907.

11541. Selling horses, etc., at auction. Every person who sells at auction any horses, mules, asses, or cattle, and fails to record in a book the name of the person who offers for sale said animals, the names of the owners with their residences, the color, brand, mark, size, and age of the animal offered for sale, or fails to keep said book open for the inspection of any person, is punishable by a fine not exceeding fifty dollars. This section does not apply to judicial sales.

History: En. Sec. 1177, Pen. C. 1895; re-en. Sec. 8850, Rev. C. 1907.

11542. Branding animals driven through the state. Every person who owns or has charge of any horses, cattle or sheep which are driven into

or through any part of this state, and fails to plainly brand or mark the animals so driven, so that such animals may be readily distinguished from other animals, is punishable by a fine not exceeding three hundred dollars.

History: En. Sec. 1178, Pen. C. 1895; re-en. Sec. 8851, Rev. C. 1907.

11543. Driven stock to be branded. All droves of horses, mules, cattle or sheep which may hereafter be driven from any other state or territory of the United States or any foreign country, into or through any county or counties of this state, shall be plainly branded or marked with one uniform brand or mark.

History: En. Sec. 1, p. 54, L. 1893; re-en. Sec. 1179, Pen. C. 1895; re-en. Sec. 8852, Rev. C. 1907.

11544. Road brand. All such horses, mules and cattle shall be so branded with one distinct ranch or road brand of the owner or owners so as to show distinctly in such place or places as the owner may adopt.

History: En. Sec. 2, p. 54, L. 1893; re-en. Sec. 1180, Pen. C. 1895; re-en. Sec. 8853, Rev. C. 1907.

11545. Sheep brands. All such sheep shall be marked distinctly with such mark or device as may be sufficient to distinguish the same readily should they become intermixed or mingled with other flocks of sheep in this state.

History: En. Sec. 3, p. 54, L. 1893; re-en. Sec. 1181, Pen. C. 1895; re-en. Sec. 8854, Rev. C. 1907.

11546. Penalties. Any such owner or owners, person or persons in charge of such drove of stock which may be driven into or through this state, who shall fail to comply with the provisions of this act, shall be fined in a sum not less than fifty dollars nor more than three hundred dollars, together with costs of suit.

History: En. Sec. 4, p. 54, L. 1893; re-en. Sec. 1182, Pen. C. 1895; re-en. Sec. 8855, Rev. C. 1907.

11547. Duty of officers. It shall be the special duty of the county attorney, sheriff, and any constable of each and every county in this state, to enforce the provisions of this act.

History: En. Sec. 5, p. 54, L. 1893; re-en. Sec. 1183, Pen. C. 1895; re-en. Sec. 8856, Rev. C. 1907.

11548. Fines, how disposed of. All fines collected under the provisions of this act, shall be paid into the general school fund of the county in which judgment therefor is recovered.

History: En. Sec. 6, p. 54, L. 1893; re-en. Sec. 1184, Pen. C. 1895; re-en. Sec. 8857, Rev. C. 1907.

11549. Driving cattle from customary range forbidden. Every person who wilfully drives or causes to be driven any cattle, horses, mules, or sheep from their customary range without the permission of the owner thereof is punishable by imprisonment in the county jail not exceeding ninety days, or by fine not exceeding one hundred dollars, or both.

History: En. Sec. 1, Ch. 60, L. 1919.

Note.—This section superseded sections 8858 and 8860, Revised Codes 1907.

Cited or applied as section 8860, Revised Codes, before amendment, in *State v. Bradshaw*, 53 Mont. 96, 100, 161 Pac. 96.

11550. Abandonment of sheep by herder—Penalty. Every person who, having, by virtue of his employment as herder, driver or otherwise, the charge or custody of any sheep, shall wilfully abandon the same, or allow them to stray from his charge or custody, shall, upon conviction, be punished by a fine of not less than one hundred dollars, or by imprisonment of not less than three months nor more than one year, or by both such fine and imprisonment; provided, that if the person so in the charge or custody of such sheep shall have given to the owner of such sheep, or his authorized agent, at least five days notice of his intention to quit his employment, he shall not be deemed to have abandoned such sheep, within the meaning of this act, by leaving the same after the expiration of such period.

History: En. Sec. 1, Ch. 116, L. 1909.

11551. Taking up or restraining horses, etc., without owner's consent—Penalty. Any person, persons, corporation or company, who shall take up or retain in his or their possession, any mare, gelding, colt, foal, filly, mule, jack or jennet, the owner of which cannot with reasonable diligence be found, or of which he is not the owner, without the owner's knowledge or consent, or who shall in any manner restrain from liberty for the purpose or purposes of using or making use of such animal without the knowledge and consent of the owner, shall be guilty of a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

History: En. Sec. 1, Ch. 126, L. 1909.

11552. Dogging livestock. Any person, who shall permit or direct any dog owned by them, or in their possession or in the possession of any employer to chase or run any cattle or other livestock, of which he is not the owner or the person in charge, upon the open range, or government lands or away from any watering place upon the open range, shall be guilty of a misdemeanor and shall be punishable by a fine of not more than fifty dollars.

History: En. Sec. 1, Ch. 110, L. 1903; re-en. Sec. 8861, Rev. C. 1907.

11553. Branding cattle running at large. Every person save only an owner, and he only when branding on his own premises and in the presence of two responsible citizens, who marks or brands any calf or cattle that are running at large between the first day of December, and the tenth day of May of the next ensuing year; and every person who shall at any time brand or cause to be branded or marked, any horse, mule, cattle or head of cattle, sheep, swine, or other animal, one year old or older, with any piece of metal or implement, other than a branding-iron, which branding-iron shall be of the same design as the brand or mark owned by the party using it; or who shall so mark or brand, or cause to be marked or branded any of the animals aforesaid with any piece or pieces of iron called "running irons," such as bars, rings, half or quarter circles; is punishable by imprisonment in the county jail for not exceeding six

months, or by a fine of not less than twenty-five dollars, nor more than five hundred dollars, or both.

History: En. Sec. 1189, Pen. C. 1895; re-en. Sec. 8863, Rev. C. 1907.

11554. Prohibiting sash or frying-pan brand. Every person who, for the purpose of branding horses, cattle, sheep, goats or any other animal, uses as a brand, a sash, frying-pan or any device whatsoever, which can be employed or used to obliterate a brand, and every person who shall use any unrecorded brand which is an infringement upon any recorded brand, or who shall use a like brand in the same position or place recorded by another, is punishable by a fine not exceeding two hundred dollars, or imprisonment in the county jail not exceeding sixty days, or both.

History: En. Sec. 1190, Pen. C. 1895; amd. Sec. 1, Ch. 125, L. 1903; re-en. Sec. 8864, Rev. C. 1907.

11555. Driving cattle on railroad. Every person who wilfully drives any animal upon any railroad track with intent to injure the corporation or persons owning the railroad, and such animal is killed or injured thereby, is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 1191, Pen. C. 1895; re-en. Sec. 8865, Rev. C. 1907.

11556. Diseased animals. It is unlawful for any person having in charge any horse, mule, ass, sheep, hog, or cattle, affected with a contagious disease, to allow such animal to run on any range or to be within any enclosure where they may come in contact with any other animal not so diseased. All animals so affected must be immediately removed to an inside inclosure secure from other animals, or must be herded six miles away from any farm or ranch or from any other stock running at large or being herded. Every person who neglects or refuses to remove, or inclose, or herd as aforesaid, such diseased animals, is guilty of a misdemeanor and liable in damages to the party injured.

History: En. Sec. 1193, Pen. C. 1895; re-en. Sec. 8867, Rev. C. 1907.

11557. Unlawful and dangerous fences. Any person owning any lands in this state, or if the owner is not a resident wherein said land is situated, his managing agent, or if such lands are leased, the lessor, who shall permit any barbed or other wire to remain down, or broken in such condition as to be dangerous to livestock, for the period of thirty days, and the further period of ten days, after personal service upon him of a notice in writing, to repair said wire, shall be deemed guilty of a misdemeanor.

History: En. Sec. 1194, Pen. C. 1895; re-en. Sec. 8868, Rev. C. 1907.

11558. Wearing certain uniforms prohibited. Every person, other than an officer or enlisted man of the national guard of the state of Montana, or of any other state, or of the United States army or navy, marine corps or revenue service or forest service, or instructor, or student in a military school, or inmate of any veterans' or soldiers' home, who at any time wears the uniform of the United States army or navy or national guard, or any part of such uniform, or a uniform or part of a uniform similar thereto, within the bounds of the state of Montana, is guilty of a

misdemeanor, and if found guilty of such offense shall be punishable by a fine of not less than one hundred nor more than two hundred and fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment; provided, that nothing in this act shall be construed as prohibiting persons of the theatrical profession from wearing such uniform in any playhouse or theater while actually engaged in following said profession, and provided, that nothing in this act shall be construed as prohibiting the uniform rank of civic societies parading or traveling in a body or assembling in a lodge room; and provided, further, that whenever the national guard, or any part thereof is in active service, or is called into active service, no civic organization or member thereof shall parade or appear in uniform in the locality where said national guard is in service.

History: En. Sec. 1, Ch. 58, L. 1909.

11559. Unlawful entries in races. It is hereby made unlawful in this state for any person or persons knowingly to enter or cause to be entered for competition or to compete for any purse, prize, premium, stake or sweepstakes offered or given by any agricultural or other society, association, person or persons or to drive any horse, mare, gelding, colt or filly under an assumed name or out of its proper class where such purse, prize, premium, stake or sweepstakes is to be decided by a contest of speed. Any person or persons found guilty of a violation of this section shall, upon conviction thereof, be imprisoned in the penitentiary for a period of not more than three years, or imprisoned in the county jail of the county in which the accused may be convicted for any period not more than six months, and shall be fined in any sum not exceeding one thousand dollars.

History: En. Sec. 1195, Pen. C. 1895; re-en. Sec. 8869, Rev. C. 1907.

11560. Name of racehorse. The name of any horse, for the purpose of entry for competition in any contest of speed, shall not be changed after once having contested for a prize, purse, premium, stake or sweepstakes, except as provided by the code of rules of the society or association under which the contest is advertised to be conducted. The class to which a horse belongs, for the purpose of an entry in any such contest of speed, shall be determined by the public performance of said horse in any former contest or trial of speed as provided by the rules of the society under which the proposed contest is advertised to be conducted. And any person or persons knowingly misrepresenting or fraudulently concealing the public performance of any former contest or trial of speed of any horse which he or they propose to enter for competition in any such contest, shall, upon conviction thereof, be liable to the same punishment as provided in the preceding section, whether he or they shall succeed in making said entry or not.

History: En. Sec. 1196, Pen. C. 1895; re-en. Sec. 8870, Rev. C. 1907.

11561. Desecration of flag. Any person who, in any manner for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag, standard, color, or ensign of the United States of America, or shall

expose, or cause to be exposed to public view any such flag, standard, color or ensign upon which shall be printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away or for use for any purpose, any article or substance, being any article of merchandise or receptacle of merchandise, upon which shall have been printed, painted, attached, or otherwise placed, a representation of any such flag, standard, color, or ensign to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, defile, or defy, trample upon, or cast contempt upon, either by words or acts, upon any such flag, standard, color, or ensign, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by a term in the state penitentiary not exceeding five years, and in addition, a fine not exceeding one thousand dollars.

History: En. Sec. 1, Ch. 63, L. 1905; re-en. Sec. 8875, Rev. C. 1907; amd. Sec. 1, Ch. 12, Ex. L. 1918.

flag or other government symbol for advertising or other commercial purposes, see notes in 4 Ann. Cas. 270; 10 Ann. Cas. 528.

Statutes against desecration of flag, see note in 7 L. R. A. (N. S.) 1079.

Validity of statute prohibiting use of

11562. Meaning of term "flag." The words flag, standard, color, or ensign, as used in this act, shall include any flag, standard, color, ensign, or any picture or representation of either thereof, made of any substance or represented on any substance, and of any size evidently purporting to be said flag, standard, color, or ensign of the United States of America, or a picture, or representation of either thereof upon which shall be shown the colors, the stars, and the stripes in any number of either thereof, or by which the person seeing the same without deliberation may believe the same to represent the flag, color, standard, or ensign of the United States of America.

History: En. Sec. 2, Ch. 63, L. 1905; re-en. Sec. 8876, Rev. C. 1907.

11563. Exceptions. This act shall not apply to any act permitted by the statutes of the United States of America, or by the United States army and navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, or commission of appointment to office, ornamental picture, or stationery for use in correspondence, on any of which shall be printed, painted or placed said flag, disconnected from any advertisement.

History: En. Sec. 3, Ch. 63, L. 1905; re-en. Sec. 8877, Rev. C. 1907.

11564. Advertising to procure divorce forbidden. Any person who advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed, or circulated, any circular, pamphlet, card, handbill, advertisement, printed paper, book, newspaper, or notice of any kind, with intent to procure, or to aid in procuring any divorce, either in this state or elsewhere, shall be fined not less than twenty-five dollars nor more than one hundred dollars, for such offense, or imprisoned in the county jail not less than ten days nor more than thirty days, or

both such fine and imprisonment. This act shall not be deemed to apply to the publication of summons in actions for divorce.

History: En. Sec. 1, Ch. 73, L. 1903; Prohibitory statutes against advertising
re-en. Sec. 8878, Rev. C. 1907. Cal. Pen. C. procurement of divorces, see note in Ann.
Sec. 159a. Cas. 1916A, 904.

11565. Use of firearms by children under the age of fourteen years prohibited. It shall be unlawful for any parent, guardian, or other person, having the charge or custody of any minor child under the age of fourteen years, to permit such minor child to carry or use any firearms of any description, loaded with powder and lead, in public, except when such child is in the company of such parent or guardian.

History: En. Sec. 1, Ch. 111, L. 1907; Sec. 8879, Rev. C. 1907.

11566. Liability of parent or guardian. Any parent, guardian, or other person, violating the provisions of this act shall be guilty of a misdemeanor, and the county attorney, on complaint of any person, must prosecute violations of this act.

History: En. Sec. 2, Ch. 111, L. 1907; Sec. 8880, Rev. C. 1907.

11567. Exhibition of pictures of crime prohibited. Every person who shall exhibit moving pictures wherein are shown or exhibited to the public any scenes or pictures depicting burglaries, train robberies, or other acts which would constitute a felony, is guilty of a misdemeanor.

History: En. Sec. 1, Ch. 66, L. 1907; Sec. 8881, Rev. C. 1907.

11568. Stealing rides upon cars or locomotives. It shall be and hereby is declared to be a misdemeanor for any person to enter upon, ride upon, or secure passage upon, any railroad car or locomotive or tender, of any description, other than a car used exclusively for the carriage of passengers, with intent thereby to obtain a ride without payment therefor, or fraudulently obtain carriage upon any such car, locomotive or tender.

History: En. Sec. 1, p. 150, L. 1899; re-en. Sec. 8882, Rev. C. 1907.

11569. Stealing rides on trucks, rods, or brakebeams. It shall be and is hereby declared to be misdemeanor for any person excepting railroad employes in the performance of their duty, to take passage or ride upon, or enter for the purpose of taking passage or riding upon, the trucks, rods, brakebeams, or any part of any car, locomotive, or tender not ordinarily and customarily used, or intended for the resting place of a person riding upon or operating the same.

History: En. Sec. 2, p. 150, L. 1899; re-en. Sec. 8883, Rev. C. 1907.

11570. Trainmen constituted peace officers. Every conductor, engineer or other person in charge of the operation of cars or trains, or locomotives, upon any railroad, are, while so engaged or employed, hereby constituted public executive officers, of the class of peace officers, and of the grade of a constable in each county wherein their train or car, or cars, or locomotives may from time to time happen to be, and are hereby given the same authority as other peace officers to with or without a warrant arrest and prosecute persons violating any provision of this act; provided, however, that the persons mentioned herein shall not be entitled to receive

fees for any arrest or prosecution which may be made or prosecuted under this act. And provided further, that none of the persons herein named shall be authorized to hold said office or exercise its functions unless at the time he shall be a citizen of the United States, and shall have been a citizen of this state for at least one year next preceding his exercising the functions thereof.

History: En. Sec. 3, p. 150, L. 1899; re-en. Sec. 8884, Rev. C. 1907.

11571. Wearing mask or disguise. It is unlawful for any person to wear any mask, false whiskers, or any personal disguise (whether complete or partial) for the purpose of

1. Evading or escaping discovery, recognition or identification in the commission of any public offense.

2. Concealment, flight or escape when charged with, arrested for, or convicted of any public offense. Any person violating any of the provisions of this section is guilty of a misdemeanor.

History: En. Sec. 324, Pen. C. 1895; re-en. Sec. 8288, Rev. C. 1907. Cal. Pen. C. Sec. 185.

11572. Prison-made goods to be stamped. It shall hereafter be unlawful for any person engaged in the trade of buying and selling or of selling any goods, wares or merchandise or articles or thing to knowingly exhibit or sell or offer for sale any goods, wares, merchandise, article or thing which shall have been produced or manufactured or made by convict labor in any prison, unless such goods shall have plainly stamped or marked thereon the words "prison made."

History: En. Sec. 1, Ch. 32, L. 1911. by convict labor to be so stamped, see note in Ann. Cas. 1913B, 817.
Validity of statute requiring goods made

11573. Same—Penalty for violation of act. Any person or persons who shall knowingly sell or offer for sale any goods, wares or merchandise, article or thing produced, made or manufactured in any prison which said goods, wares, merchandise, article or thing shall not have stamped or marked thereon the words "prison made" shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punishable by a fine of not less than twenty-five dollars or more than three hundred dollars, or by imprisonment in the county jail of not less than thirty days or more than ninety days, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 32, L. 1911.

11574. Permitting logs to accumulate along shore forbidden. Any person or corporation who shall run or float sawlogs or other timber upon the surface of any navigable lake within the state of Montana, shall not allow such sawlogs or other timber to accumulate along the shore, or in any bay, of such navigable lake, in such a way as to obstruct or interfere with free access to any lands lying between high-water mark and low-water mark of such lake, and between high-water mark and the open waters of such lake so as to leave at all times one hundred and fifty feet open water along the shore of such lake, except as provided in the following section.

History: En. Sec. 1, Ch. 147, L. 1911.

11575. Same—Control of logs on navigable lake. Any person or corporation using the waters of any navigable lake for floating logs or timber, shall so dispose of such logs and timber along the shore, or in any bay, of any such navigable lake within the state of Montana, that a free passageway from high-water mark to the unobstructed surface of such lake shall at all times be left open, and such passageway shall not be less than one hundred and fifty feet in width of open water along the shore of such lake, provided that said logs may be held at a distance of less than one hundred and fifty feet from the shore, where the land abutting the water is owned by the same party owning the logs, but if such logs occupy the water for a distance of six hundred feet or more along the shore of such lake, then and in that event an open channel not less than one hundred feet in width shall be maintained through said logs from the shore, to the open waters of the lake, and one such open channel shall be maintained for each six hundred feet of the shore line that is so obstructed.

History: En. Sec. 2, Ch. 147, L. 1911.

11576. Penalty for violation of act. Any person or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding five hundred dollars, or imprisonment in the county jail not exceeding a period of thirty days, or by both such fine and imprisonment.

History: En. Sec. 3, Ch. 147, L. 1911.

11577. Discrimination by hospitals forbidden. Every person, persons, corporation or association conducting a hospital or hospitals not held for private or corporate profit or a hospital or hospitals that are institutions of purely public charity, that exempt themselves or are exempted from any state, county or municipal tax by reason thereof, shall not in any manner discriminate between the patients of any regularly licensed physician by reason of the fact that said physician is not a member of the medical staff of said hospital, or for any other reason, and such hospitals are hereby compelled to admit and care for the patients of any regularly licensed physician or physicians under the same terms and conditions as may be promulgated by the management of said hospital as the patients of any other regularly licensed physician.

History: En. Sec. 1, Ch. 114, L. 1913.

11578. Penalty for violation of act. Every person, persons, corporation or association who with the intent to injure any patient or to injure the practice of any physician or surgeon is found guilty of violating any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars and not exceeding one thousand dollars, and shall forthwith forfeit its right of exemption from taxation.

History: En. Sec. 2, Ch. 114, L. 1913.

11579. Defrauding inn and hotel-keepers, etc.—Penalty. Any person who shall put up at any inn or hotel, restaurant, cafe, apartment, rooming or boarding-house, or hospital, and who shall (except where credit is given by agreement) procure any food, entertainment or accommodation

without paying therefor and with intent to cheat and defraud the owner or keeper thereof out of his pay for same, or who, with intent to cheat and defraud such owner or keeper out of the pay thereof, shall obtain credit at any hotel or inn, restaurant, cafe, apartment, rooming or boarding-house or hospital for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto, or shall with such intent remove or cause to be removed any baggage or effects from any hotel or inn, restaurant, cafe, apartment, rooming or boarding-house, or hospital, where there is a lien existing thereon for the proper charges due from such guest for fare and board furnished therein shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding three months or by fine not exceeding one hundred dollars and costs, or both such fine and imprisonment.

History: En. Sec. 2514, Civ. C. 1895; re-en. Sec. 5177, Rev. C. 1907; amd. Sec. 1, Ch. 9, L. 1917. Cal. Pen. C. Sec. 537.

Statute punishing frauds on innkeepers

as within constitutional provision against imprisonment for debt, see notes in 16 Ann. Cas. 1231; Ann. Cas. 1915C, 1002; 21 L. R. A. (N. S.) 259; L. R. A. 1915B, 649.

11580. Penalty for obstructing mining shafts, etc. Any person who shall, in any manner, cast, throw, place in, or cause to enter, fill, obstruct, or partially fill or obstruct, any drift, shaft, tunnel, open cut, or any other opening in or upon any mining-claim or mining property owned, possessed, or lawfully held or claimed by another under the laws of the state of Montana, or under the laws of the United States, or otherwise, any debris, stone, rock, earth, timber, brush, carcass of any dead animal, machinery, appliances, or any other material or thing whatsoever, without the written consent of the person owning or lawfully possessing such mining property or claim, or who shall, in any manner, cause such drift, shaft, tunnel, open cut, or other opening to cave in or otherwise rendered of less value for use, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of not less than thirty days nor more than six months, or by both such fine and imprisonment. A conviction under the provisions of this act shall not affect any right to recover damages for the doing of anything herein forbidden, or the commission of any trespass upon a mining claim or property of another.

History: En. Sec. 1, Ch. 123, L. 1921.

CHAPTER 55.

PUNISHMENTS—ATTEMPTS AND OTHER GENERAL PROVISIONS.

- Section** 11581. Acts Made Punishable by Different Provisions of This Code.
 11582. Acts Punishable Under Foreign Laws.
 11583. Foreign Conviction or Acquittal.
 11584. Contempts, How Punishable.
 11585. Mitigation of Punishment in Certain Cases.
 11586. Aiding in Misdemeanor.
 11587. Sending Letters, When Deemed Complete.
 11588. Removal From Office for Neglect of Official Duty.
 11589. Omission to Perform Duty, When Punishable.
 11590. Attempt to Commit Crimes, When Punishable.

- 11591. Attempts to Commit Crime, How Punishable.
- 11592. Restrictions Upon the Preceding Sections.
- 11593. Second Offense, How Punished After Conviction of Former Offense.
- 11594. Second Offenses, How Punished After Conviction of Attempt to Commit a State Prison Offense.
- 11595. Foreign Conviction for Former Offense.
- 11596. Second Term of Imprisonment, When to Commence.
- 11597. When Term of Imprisonment Commences, etc.
- 11598. Imprisonment for Life.
- 11599. Fine May Be Added to Imprisonment.
- 11600. Civil Rights of Convict Suspended.
- 11601. Civil Death.
- 11602. Limitations to Two Preceding Sections.
- 11603. Convict Competent Witness.
- 11604. Person of Convict Protected.
- 11605. Forfeitures.

11581. Acts made punishable by different provisions of this code.

An act or omission which is made punishable in different provisions of this code may be punished under either of such provisions, but in no case can it be punished under more than one; an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other. In the cases specified in sections 11525, 11594, and 11595, the punishment therein prescribed must be substituted for those prescribed for a first offense, if the previous conviction is charged in the indictment or information and found by the jury.

Related sections: 11583, 11612, 11719, History: En. Sec. 1220, Pen. C. 1895; 11907, 11912. re-en. Sec. 8885, Rev. C. 1907. Cal. Pen. C. Sec. 654.

11582. Acts punishable under foreign laws. An act or omission declared punishable by this code is not less so because it is also punishable under the laws of another state, government, or country, unless the contrary is expressly declared.

History: En. Sec. 1221, Pen. C. 1895; re-en. Sec. 8886, Rev. C. 1907. Cal. Pen. C. Sec. 655.

11583. Foreign conviction or acquittal. Whenever on the trial of an accused person it appears that upon a criminal prosecution under the laws of another state, government, or country, founded upon the act or omission in respect to which he is on trial, he has been acquitted or convicted, it is a sufficient defense.

Related section: 11581. re-en. Sec. 8887, Rev. C. 1907. Cal. Pen. C. History: En. Sec. 1222, Pen. C. 1895; Sec. 656.

11584. Contempts, how punishable. A criminal act is not the less punishable as a crime because it is also declared to be punishable as a contempt.

Related section: 10944. re-en. Sec. 8888, Rev. C. 1907. Cal. Pen. C. History: En. Sec. 1223, Pen. C. 1895; Sec. 657.

11585. Mitigation of punishment in certain cases. When it appears, at the time of passing sentence upon a person convicted upon indictment or information, that such person has already paid a fine or suffered an imprisonment for the act of which he stands convicted, under an order

judging it a contempt, the court authorized to pass sentence may mitigate the punishment to be imposed, in its discretion.

History: En. Sec. 1224, Pen. C. 1895; re-en. Sec. 8889, Rev. C. 1907. Cal. Pen. C. Sec. 658.

11586. Aiding in misdemeanor. Whenever an act is declared a misdemeanor, and no punishment for counseling or aiding in the commission of such act is expressly prescribed by law, every person who counsels or aids another in the commission of such act is guilty of a misdemeanor.

History: En. Sec. 1225, Pen. C. 1895; re-en. Sec. 8890, Rev. C. 1907. Cal. Pen. C. Sec. 659. Cited or applied as section 1225, Penal Code, in *State v. Woodman*, 26 Mont. 348, 354, 67 Pac. 1118.

11587. Sending letters, when deemed complete. In the various cases in which the sending of a letter is made criminal by this code, the offense is deemed complete from the time when such letter is deposited in any postoffice, or any other place, or delivered to any person, with intent that it shall be forwarded.

History: En. Sec. 1226, Pen. C. 1895; re-en. Sec. 8891, Rev. C. 1907. Cal. Pen. C. Sec. 660.

11588. Removal from office for neglect of official duty. In addition to the penalty affixed by express terms, to every neglect or violation of official duty on the part of public officers—state, county, city, town, or township—where it is not so expressly provided, they may, in the discretion of the court, be removed from office.

Related sections: 4911, 11702.

re-en. Sec. 8892, Rev. C. 1907. Cal. Pen. C.

History: En. Sec. 1227, Pen. C. 1895; Sec. 661.

11589. Omission to perform duty, when punishable. No person is punishable for an omission to perform an act, where such act has been performed by another person acting in his behalf, and competent by law to perform it.

History: En. Sec. 1228, Pen. C. 1895; re-en. Sec. 8893, Rev. C. 1907. Cal. Pen. C. Sec. 662.

11590. Attempts to commit crimes, when punishable. An act done with intent to commit a crime, and tending but failing to effect its commission, is an attempt to commit that crime. Any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was perpetrated by such person in pursuance of such attempt, unless the court, in its discretion, discharges the jury and directs such person to be tried for such crime.

Related section: 12024.

History: En. Sec. 1229, Pen. C. 1895; re-en. Sec. 8894, Rev. C. 1907. Cal. Pen. C. Sec. 663.

inference of the specific intent required, under this section, to be present at the time of the alleged crime. *State v. Hanson*, 49 Mont. 361, 368, 141 Pac. 669.

Cited or applied as section 8894, Revised Codes, in *State v. Rains*, 53 Mont. 424, 426, 164 Pac. 540.

Testimony of a witness that accused, charged with an attempt to rob, had solicited the witness some six days before the assault to join in committing robbery, was too remote to supply the basis for an

Elements of attempt to commit crime, see note in 8 Ann. Cas. 630.

11591. Attempts to commit crime, how punishable. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in

the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempt, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison for five years, or more, or by imprisonment in the county jail, the person guilty of such attempt is punishable by imprisonment in the state prison, or in the county jail, as the case may be, for a term not exceeding one-half the longest term of imprisonment prescribed upon a conviction of the offense so attempted.

2. If the offense so attempted is punishable by imprisonment in the state prison for any term less than five years, the person guilty of such attempt is punishable by imprisonment in the county jail for not more than one year.

3. If the offense so attempted is punishable by a fine, the offender convicted of such an attempt is punishable by a fine not exceeding one-half the largest fine which may be imposed upon a conviction for the offense so attempted.

4. If the offense so attempted is punishable by a fine and imprisonment, the offender convicted of such attempt may be punished by both such imprisonment and fine, not exceeding one-half the longest term of imprisonment and one-half the largest fine which may be imposed upon a conviction for the offense so attempted.

History: Ap. p. Sec. 191, p. 314, Cod. Stat. 1871; re-en. Sec. 218, 4th Div. Rev. Stat. 1879; re-en. Sec. 285, 4th Div. Comp. Stat. 1887; en. Sec. 1230, Pen. C. 1895; re-en. Sec. 8895, Rev. C. 1907. Cal. Pen. C. Sec. 664.

Where the evidence is not before the appellate court, it will be presumed that the trial court properly fixed the punishment on a conviction for attempt to commit burglary. *State v. Mish*, 36 Mont. 168, 175, 92 Pac. 459, 122 Am. St. Rep. 343.

In view of this section and of section

11030 and of section 11598, the court had authority to fix the punishment of one found guilty of an attempt to commit the infamous crime against nature, at fifteen years, since, in its discretion, it could have sentenced defendant, if guilty of the infamous crime itself, to a term of thirty years, and hence could, with propriety, fix one-half that term upon conviction for the attempt. *State v. Stone*, 40 Mont. 88, 92, 105 Pac. 89.

Cited or applied as section 191, p. 314, Codified Statutes 1871, in *Territory v. Hildebrand*, 2 Mont. 426, 431.

11592. Restrictions upon the preceding sections. The last two sections do not protect a person who, in attempting unsuccessfully to commit a crime, accomplishes the commission of another and different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

History: En. Sec. 1231, Pen. C. 1895; re-en. Sec. 8896, Rev. C. 1907. Cal. Pen. C. Sec. 665.

11593. Second offense, how punished after conviction of former offense. Every person who, having been convicted of any offense punishable by imprisonment in the state prison, commits any crime after such conviction, is punishable therefor as follows:

1. If the offense of which such person is subsequently convicted is such that, upon a first conviction, an offender would be punishable by imprisonment in the state prison for any term exceeding five years, such person is punishable by imprisonment in the state prison not less than ten years.

2. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the state prison for five years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the state prison not exceeding ten years.

3. If the subsequent conviction is for petit larceny, or any attempt to commit an offense which, if committed, would be punishable by imprisonment in the state prison not exceeding five years, then the person convicted of such subsequent offense is punishable by imprisonment in the state prison not exceeding five years.

History: En. Sec. 1232, Pen. C. 1895; re-en. Sec. 8897, Rev. C. 1907. Cal. Pen. C. Sec. 666.

Under this section and sections 9325, 12023, and 12028, a judgment that defendant "be imprisoned in the state prison for the term of ten years, five years upon the conviction for assault in the second degree, and five years for the prior conviction of a felony as by the statute made and provided," is not void as to the five years for former conviction. The division of the term into equal parts, and the assignment of each part to its supposed function as a measure of punishment is merely redundant, and not ground for reversal, under sections 12125 and 11874. *State v. Connors*, 27 Mont. 227, 228, 70 Pac. 715.

A sentence to fifty years' imprisonment of one convicted of robbery, who is also found to have been previously convicted in another state of burglary, is warranted by the law. *State v. Paisley*, 36 Mont. 237, 248, 92 Pac. 566.

Cited or applied as section 8897, Revised Codes, in *State v. Collins*, 53 Mont. 213, 163 Pac. 102.

Imposition of penalty by court for second offense as dependent on allegation and proof of former conviction, see notes in Ann. Cas. 1912A, 1000; 34 L. R. A. 398; 24 L. R. A. (N. S.) 432; 48 L. R. A. (N. S.) 204.

11594. Second offenses, how punished after conviction of attempt to commit a state prison offense. Every person who, having been convicted of petit larceny, or attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the state prison, commits any crime after such conviction, is punishable as follows:

1. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the state prison for life, at the discretion of the court, such person is punishable by imprisonment in such prison during life.

2. If the subsequent offense is such that, upon a first conviction, the offender would be punishable by imprisonment in the state prison for any term less than life, such person is punishable by imprisonment in such prison for the longest term prescribed upon a conviction for such first offense.

3. If the subsequent conviction is for petit larceny, or for an attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the state prison, then such person is punishable by imprisonment in such prison not exceeding five years.

Related section: 11581.

History: En. Sec. 1233, Pen. C. 1895;

re-en. Sec. 8898, Rev. C. 1907. Cal. Pen. C. Sec. 667.

11595. Foreign conviction for former offense. Every person who has been convicted in any other state, government, or country, of an offense which, if committed within this state, would be punishable by the laws of this state by imprisonment in the state prison, is punishable for any subsequent crime committed in this state in the manner prescribed in the last

two sections, and to the same extent as if such first conviction had taken place in a court of this state.

History: En. Sec. 1234, Pen. C. 1895; re-en. Sec. 8899, Rev. C. 1907. Cal. Pen. C. Sec. 668.

It is immaterial whether the crime for

which the defendant is alleged to have been previously convicted is a felony in the foreign state. *State v. Paisley*, 36 Mont. 237, 247, 92 Pac. 566.

11596. Second term of imprisonment, when to commence. When any person has been convicted of two or more crimes before sentence has been pronounced upon him for either, the imprisonment to which he is sentenced upon the second or other subsequent conviction must commence at the termination of the first term of imprisonment to which he shall be adjudged, or at the termination of the second or other subsequent term of imprisonment, as the case may be.

History: En. Sec. 1235, Pen. C. 1895; re-en. Sec. 8900, Rev. C. 1907. Cal. Pen. C. Sec. 669.

11597. When term of imprisonment commences, etc. The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant at the place of imprisonment, and if, thereafter, during such term, the defendant by any legal means is temporarily released from such imprisonment, and subsequently returned thereto, the time during which he was at large must not be computed as part of such term.

History: En. Sec. 1236, Pen. C. 1895; re-en. Sec. 8901, Rev. C. 1907. Cal. Pen. C. Sec. 670.

11598. Imprisonment for life. Whenever any person is declared punishable for a crime by imprisonment in the state prison for a term not less than any specified number of years, and no limit to the duration of such imprisonment is declared, the court authorized to pronounce judgment upon such conviction may, in its discretion, sentence such offender to imprisonment during his natural life, or for any number of years not less than that prescribed.

Related sections: 10725, 10951.

History: En. Sec. 1237, Pen. C. 1895; re-en. Sec. 8902, Rev. C. 1907. Cal. Pen. C. Sec. 671.

Cited or applied as section 8902, Revised Codes, in *State v. Stone*, 40 Mont. 88, 90, 105 Pac. 89.

11599. Fine may be added to imprisonment. Upon conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding two hundred dollars, in addition to the punishment prescribed.

History: En. Sec. 1238, Pen. C. 1895; re-en. Sec. 8903, Rev. C. 1907. Cal. Pen. C. Sec. 672.

11600. Civil rights of convict suspended. A sentence of imprisonment in the state prison for any term less than life suspends all the civil rights of the person so sentenced, and forfeits all public offices and private trusts, authority, or power, during such imprisonment.

History: En. Sec. 154, p. 217, Bannack Stat.; re-en. Sec. 186, p. 313, Cod. Stat. 1871; re-en. Sec. 213, 4th Div. Rev. Stat. 1879; re-en. Sec. 279, 4th Div. Comp. Stat. 1887; amd. Sec. 1239, Pen. C. 1895; re-en.

Sec. 8904, Rev. C. 1907. Cal. Pen. C. Sec. 673.

Law as to civil death in the United States, see note in 18 L. R. A. 82.

11601. Civil death. A person sentenced to imprisonment in the state prison for life is thereafter deemed civilly dead.

History: En. Sec. 1240, Pen. C. 1895; re-en. Sec. 8905, Rev. C. 1907. Cal. Pen. C. Sec. 674.

11602. Limitations to two preceding sections. The provisions of the last two preceding sections must not be construed to render the person therein mentioned incapable of making and acknowledging a sale or conveyance of property.

History: En. Sec. 1241, Pen. C. 1895; re-en. Sec. 8906, Rev. C. 1907. Cal. Pen. C. Sec. 675.

11603. Convict competent witness. A person convicted of any offense is notwithstanding a competent witness in any cause or proceeding, civil or criminal, but the conviction may be proved for the purpose of affecting the weight of his testimony, either by the record or by his examination as such witness.

Related sections: 10665, 10668, 10674.

History: En. Sec. 1242, Pen. C. 1895; re-en. Sec. 8907, Rev. C. 1907. See Cal. Pen. C. Sec. 675. See also Sec. 714, N. Y. Penal Code.

Cited or applied as section 8907, Revised Codes, in *State v. Smith*, 57 Mont. 563, 190 Pac. 107.

11604. Person of convict protected. The person of a convict sentenced to imprisonment in the state prison is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he was not convicted or sentenced.

History: En. Sec. 1243, Pen. C. 1895; re-en. Sec. 8908, Rev. C. 1907. Cal. Pen. C. Sec. 676.

11605. Forfeitures. No conviction of any person for crime works any forfeiture of any property, except in cases in which a forfeiture is expressly imposed by law; and all forfeitures to the state, in the nature of a deodand, or where any person shall flee from justice, are abolished.

History: En. Sec. 1244, Pen. C. 1895; re-en. Sec. 8909, Rev. C. 1907. Cal. Pen. C. Sec. 677.

PART II.

CRIMINAL PROCEDURE.

CONTENTS OF PART II.

- PRELIMINARY PROVISIONS, Chap. 1 and 2.
- PREVENTION OF PUBLIC OFFENSES, Chap. 3 to 6.
- PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS, Chap. 7 and 8.
- PROCEEDINGS IN CRIMINAL ACTIONS, Chap. 9 to 14.
- PROCEEDINGS ON INFORMATION OR INDICTMENT, Chap. 15 to 17.
- PROCEEDINGS AFTER INFORMATION OR INDICTMENT AND BEFORE THE COMMENCEMENT OF THE TRIAL, Chap. 18 to 23.
- PROCEEDINGS AFTER COMMENCEMENT OF TRIAL AND BEFORE JUDGMENT, Chap. 24 to 30.
- JUDGMENT AND EXECUTION, Chap. 31 and 32.
- APPEALS TO THE SUPREME COURT, Chap. 33 and 34.
- BAIL AND SURRENDER OF THE DEFENDANT, Chap. 35 to 39.
- WITNESSES IN CRIMINAL ACTIONS, Chap. 40 to 43.
- MISCELLANEOUS PROCEEDINGS, Chap 44 to 51.
- PROCEEDINGS IN JUSTICE AND POLICE COURT AND APPEALS TO DISTRICT COURTS, Chap. 52.
- SPECIAL PROCEEDINGS OF A CRIMINAL NATURE, Chap. 53 to 58.
- DISPOSITION OF FINES AND FORFEITURES, Chap. 59.

PRELIMINARY PROVISIONS, Chap. 1 and 2.

Chapter 1. Rights of Defendants.

2. Definitions—Prosecution of Criminal Actions—Jurisdiction of Courts.

PREVENTION OF PUBLIC OFFENSES, Chap. 3 to 6.

Chapter 3. Lawful Resistance—Intervention of Officers of Justice.

4. Security to Keep the Peace
5. Police in Cities and Towns and Their Admittance at Public Meetings.
6. Suppression of Riots.

PROCEEDINGS FOR THE REMOVAL OF PUBLIC OFFICERS, Chap. 7 and 8.

Chapter 7. Impeachments.

8. Removal of Officers Otherwise Than by Impeachment.

PROCEEDINGS IN CRIMINAL ACTIONS, Chap. 9 to 14.

Chapter 9. Local Jurisdiction of Public Officers.

10. Time of Commencing Criminal Actions.
11. The Complaint.
12. The Warrant of Arrest—Proceedings on Execution of the Warrant.
13. Arrest—By Whom and How Made—Retaking After Escape.
14. Examination and Commitment or Discharge of the Defendant.

PROCEEDINGS ON INFORMATION OR INDICTMENT, Chap. 15 to 17.

Chapter 15. Preliminary Provisions—Filing the Information.

16. The Grand Jury—Its Formation, Powers, and Duties—Finding and Presenting an Indictment.
17. Rules of Pleading and Form of the Information and Indictment.

PROCEEDINGS AFTER INFORMATION OR INDICTMENT AND BEFORE COMMENCEMENT OF THE TRIAL, Chap. 18 to 23.

Chapter 18. Arraignment of the Defendant.

19. Setting Aside the Indictment or Information.
20. Demurrer.
21. Pleas.
22. Change of Place of Trial.
23. Mode of Trial—Formation of Jury and Calendar of Issues—Postponement of Trial.

PROCEEDINGS AFTER COMMENCEMENT OF TRIAL AND BEFORE JUDGMENT, Chap. 25 to 30.

Chapter 24. Challenging the Jury.

25. The Trial.
26. Conduct of Jury After Submission of Case.
27. The Verdict.
28. Bills of Exception.
29. New Trials.
30. Arrest of Judgment.

JUDGMENT AND EXECUTION, Chap. 31 and 32.

Chapter 31. The Judgment—Indeterminate Sentence—Suspension of Sentence and Probation.

32. The Execution.

APPEALS TO THE SUPREME COURT, Chap. 33 and 34.

Chapter 33. Appeals—When Allowed—How Taken—The Effect Thereof.

34. Dismissing Appeals for Irregularity—Argument on the Appeal—Judgment Upon Appeal.

BAIL AND SURRENDER OF THE DEFENDANT, Chap. 35 to 39.

Chapter 35. In What Cases Defendant May Be Admitted to Bail.

36. Bail on Being Held to Answer Before Information.
37. Bail on Indictment or Information Before Conviction.
38. Bail on Appeal—Deposit Instead of Bail.
39. Surrender of Defendant—Forfeiture of Bail—Recommitment of the Defendant.

WITNESSES IN CRIMINAL ACTION, Chap. 40 to 43.

Chapter 40. Who May Be Witness in Criminal Actions.

41. Compelling the Attendance of Witnesses.
42. Examination of Witnesses Conditionally.
43. Examination of Witnesses on Commission.

MISCELLANEOUS PROCEEDINGS, Chap. 44 to 51.

- Chapter 44. Proceedings on Inquiry as to the Sanity of a Defendant.
- 45. Compromising Offenses by Leave of Court.
 - 46. Dismissal of Actions for Want of Prosecution or Other Reasons.
 - 47. Proceedings Against Corporations.
 - 48. Disposal of Property Stolen or Embezzled.
 - 49. Pardons — Commutations — Remissions — Respites — Board of Pardons.
 - 50. Proceedings in Bastardy.
 - 51. Proceedings Against Delinquent Children and Juvenile Delinquent Persons.

PROCEEDINGS IN JUSTICE AND POLICE COURTS AND APPEALS TO DISTRICT COURTS, Chap. 52.

- Chapter 52. Justices' and Police Court Proceedings—Appeals.

SPECIAL PROCEEDINGS OF A CRIMINAL NATURE, Chap. 53 to 58.

- Chapter 53. The Writ of Habeas Corpus.
- 54. Coroners' Inquests.
 - 55. Search-warrants.
 - 56. Proceedings Against Fugitives From Justice.
 - 57. Miscellaneous Provisions Respecting Special Proceedings of a Criminal Nature.
 - 58. Proceedings for Obtaining Prisoner's Attendance at Court.

DISPOSITION OF FINES AND FORFEITURES, Chap. 59.

- Chapter 59. How Fines and Forefeitures Are Disposed of.

CHAPTER 1.

RIGHTS OF DEFENDANTS.

- Section 11606. No Person Punishable But on Legal Conviction.
- 11607. Public Offenses, How Prosecuted.
 - 11608. Criminal Action Defined.
 - 11609. Parties to a Criminal Action.
 - 11610. The Party Prosecuted Known as Defendant.
 - 11611. Rights of Defendant in a Criminal Action.
 - 11612. Second Prosecution for the Same Offense Prohibited.
 - 11613. No Person to Be a Witness Against Himself in a Criminal Action, or to Be Unnecessarily Restrained.
 - 11614. No Person to Be Convicted But Upon Verdict or Judgment.

11606. No person punishable but on legal conviction. No person can be punished for a public offense, except upon a legal conviction in a court having jurisdiction thereof.

History: En. Sec. 1350, Pen. C. 1895; re-en. Sec. 8910, Rev. C. 1907. Cal. Pen. C. Sec. 681.

11607. Public offenses, how prosecuted. Every public offense must be prosecuted by indictment or information, except—

1. Where proceedings are had for the removal of civil officers of the state;

2. Offenses arising in the militia when in actual service and in the land and naval forces in time of war, or which the state may keep, with the consent of congress, in time of peace;

3. Offenses tried in justices' and police courts.

History: En. Sec. 1351, Pen. C. 1895; re-en. Sec. 8911, Rev. C. 1907. Cal. Pen. C. Sec. 682.

11608. Criminal action defined. The proceeding by which a party charged with a public offense is accused and brought to trial and punishment is known as a criminal action.

History: En. Sec. 1, p. 189, Cod. Stat. 1871; re-en. Sec. 1, 3d Div. Rev. Stat. 1879; re-en. Sec. 1, 3d Div. Comp. Stat. 1887; amd. Sec. 1352, Pen. C. 1895; re-en. Sec. 8912, Rev. C. 1907. Cal. Pen. C. Sec. 683.

11609. Parties to a criminal action. A criminal action is prosecuted in the name of the state of Montana as a party, against the person charged with the offense.

History: En. Sec. 1353, Pen. C. 1895; re-en. Sec. 8913, Rev. C. 1907. Cal. Pen. C. Sec. 684. Codified Statutes 1871; re-enacted as section 2, Third Division Revised Statutes 1879; re-enacted as section 2, Third Division Compiled Statutes 1887.

Note.—Earlier acts are section 2, p. 189,

11610. The party prosecuted known as defendant. The party prosecuted in a criminal action is designated in this code as the defendant.

History: En. Sec. 1354, Pen. C. 1895; re-en. Sec. 8914, Rev. C. 1907. See note to previous section. Cal. Pen. C. Sec. 685.

11611. Rights of defendant in a criminal action. In all criminal prosecutions the accused shall have the right—

1. To appear and defend in person and by counsel;
2. To demand the nature and cause of the action;
3. To meet the witnesses against him face to face;
4. To have process to compel the attendance of witnesses in his behalf;

5. A speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

History: En. Sec. 1355, Pen. C. 1895; re-en. Sec. 8915, Rev. C. 1907. Cal. Pen. C. Sec. 686. 708; State v. Vanella, 40 Mont. 326, 336, 106 Pac. 364, 20 Ann. Cas. 398.

Note.—Earlier acts are section 9, p. 190, Codified Statutes 1871; re-enacted as section 9, Third Division Revised Statutes 1879; re-enacted as section 9, Third Division Compiled Statutes 1887.

Under a statute providing that the accused, in a criminal prosecution, is entitled to meet the witnesses against him face to face, it is error where the prosecuting witness was not within the state, to admit in evidence the committing magistrate's general recollection of the testimony which such witness gave at the preliminary examination. State v. Lee, 13 Mont. 248, 249, 33 Pac. 690. See, also, State v. Byers, 16 Mont. 565, 569, 41 Pac.

At the date of the adoption of the constitution, in 1889, while the right to a trial by jury existed by virtue of the territorial statutes in all cases of felonies and misdemeanors, it did not exist under the provisions of the statutes in force for the prevention of public offenses, and there has not been any change in this respect. State ex rel. Jackson v. Kennie, 24 Mont. 45, 57, 60 Pac. 589.

Right of the accused to a speedy trial, see note in 85 A. S. R. 187.

Constitutional right of an accused to be confronted by witnesses and what is an invasion of that right, see notes in 129 A. S. R. 23; Ann. Cas. 1913D, 673.

Right of accused to dismissal of infor-

mation based upon self-incriminating evidence, see note in Ann. Cas. 1914C, 418.

Right of prisoner to appear unmanacled at trial, see notes in 27 Am. Rep. 116; 5 Ann. Cas. 959; 39 L. R. A. 821.

Necessity for presence of accused at trial and sentence, see notes in 28 Am.

Dec. 629; 68 Am. Dec. 219; 6 Ann. Cas. 451; 11 Ann. Cas. 813.

Waiver by accused of right to be present at trial or at reception of verdict on felony charge, see notes in Ann. Cas. 1913C, 1146; Ann. Cas. 1918E, 375; 14 L. R. A. (N. S.) 603; 32 L. R. A. (N. S.) 306; L. R. A. 1915D, 817.

11612. Second prosecution for the same offense prohibited. No person can be subjected to a second prosecution for a public offense for which he has once been prosecuted and convicted or acquitted.

Related sections: 11581, 12002.

History: En. Sec. 10, p. 190, Cod. Stat. 1871; re-en. Sec. 10, 3d Div. Rev. Stat. 1879; re-en. Sec. 10, 3d Div. Comp. Stat. 1887; amd. Sec. 1356, Pen. C. 1895; re-en. Sec. 8916, Rev. C. 1907. Cal. Pen. C. Sec. 687.

Where a person charged with crime, after a trial, is neither convicted nor acquitted, but, owing to a mistrial, the jury is discharged and the trial ended, he may

again be put upon trial for the same offense, and the defense of once in jeopardy will not lie. State v. Keerl, 33 Mont. 501, 511, 85 Pac. 862.

After a verdict on a judgment of conviction or acquittal, the defendant in a criminal case has been in jeopardy and may not be tried again for the same offense, except where a new trial has been granted or ordered. State v. Keerl, 33 Mont. 501, 516, 85 Pac. 862.

11613. No person to be a witness against himself in a criminal action, or to be unnecessarily restrained. No person can be compelled, in a criminal action, to be a witness against himself; nor can a person charged with a public offense be subjected, before conviction, to any more restraint than is necessary for his detention to answer the charge.

Related sections: 11752, 12177.

History: En. Secs. 11, 12, p. 190, Cod. Stat. 1871; re-en. Secs. 11, 12, 3d Div. Rev. Stat. 1879; re-en. Secs. 11, 12, 3d Div.

Comp. Stat. 1887; re-en. Sec. 1357, Pen. C. 1895; re-en. Sec. 8917, Rev. C. 1907. Cal. Pen. C. Sec. 688.

11614. No person to be convicted but upon verdict or judgment. No person can be convicted of a public offense unless by the verdict of a jury, accepted and recorded by the court, or upon a plea of guilty, or upon a judgment of a court, a jury having been waived, in a criminal case not amounting to felony.

History: En. Sec. 1358, Pen. C. 1895; re-en. Sec. 8918, Rev. C. 1907. Cal. Pen. C. Sec. 689.

CHAPTER 2,

DEFINITIONS—PROSECUTION OF CRIMINAL ACTIONS—JURISDICTION OF COURTS.

- Section 11615. Complaint.
 11616. Indictment.
 11617. Information.
 11618. Magistrate.
 11619. Who Are Magistrates.
 11620. Peace Officer.
 11621. Criminal Actions in Justice Court.
 11622. Criminal Actions in District Court.
 11623. Prosecutions by Information.
 11624. Leave to File Information.
 11625. Order of Court Granting.
 11626. County Attorney to File Information.
 11627. Order Entered in Minutes of Court.
 11628. Officers Not to Disclose.
 11629. Prosecutions by Indictment, When.
 11630. Jurisdiction of Justices of the Peace.
 11631. Jurisdiction of District Court.

11615. Complaint. A complaint is a statement in writing, made to a court or magistrate, that a person has been guilty of some designated offense.

Related sections: 11619, 11729, 12302. re-en. Sec. 8919, Rev. C. 1907. Cal. Pen. C. History: En. Sec. 1370, Pen. C. 1895; Sec. 806.

11616. Indictment. An indictment is an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense.

History: En. Sec. 1371, Pen. C. 1895; Cited or applied as section 1371, Penal re-en. Sec. 8920, Rev. C. 1907. Cal. Pen. C. Code, in State ex rel. Nolan v. Brantly, 20 Sec. 917. Mont. 173, 178, 50 Pac. 410.

11617. Information. An information is an accusation in writing, in form and substance like an indictment for the same offense, charging a person with a public offense, presented and signed by the county attorney and filed in the office of the clerk of the district court.

History: En. Sec. 1372, Pen. C. 1895; verified does not deprive the court of juris- re-en. Sec. 8921, Rev. C. 1907. diction to try the case. State ex rel. Nolan v. Brantly, 20 Mont. 173, 178, 50 Pac. 410.

The fact that an information is not

11618. Magistrate. A magistrate is an officer having power to issue a warrant for the arrest of a person charged with a public offense.

History: En. Sec. 1373, Pen. C. 1895; re-en. Sec. 8922, Rev. C. 1907. Cal. Pen. C. Sec. 807.

11619. Who are magistrates. The following persons are magistrates:

1. The justices of the supreme court.
2. The judges of the district court.
3. Justices of the peace.
4. Police magistrates in towns or cities.

Related section: 11729. re-en. Sec. 8923, Rev. C. 1907. Cal. Pen. C. History: En. Sec. 1374, Pen. C. 1895; Sec. 808.

11620. Peace officer. A peace officer is a sheriff of a county, or his deputy, or a constable, marshal or policeman of a township, city or town.

History: En. Sec. 1375, Pen. C. 1895; Cited or applied as section 8924, Revised re-en. Sec. 8924, Rev. C. 1907. Cal. Pen. C. Codes, in State ex rel. Quintin v. Edwards, 38 Mont. 250, 265, 99 Pac. 940. Sec. 817.

11621. Criminal actions in justice court. All criminal actions in courts of justices of the peace and police courts must be prosecuted by complaint.

History: En. Sec. 1380, Pen. C. 1895; re-en. Sec. 8925, Rev. C. 1907.

11622. Criminal actions in district court. All criminal actions in the district court, except those on appeal, must be prosecuted by information or indictment.

History: Ap. p. Sec. 1, p. 248, L. 1891; en. Sec. 1381, Pen. C. 1895; re-en. Sec. 8926, Rev. C. 1907.

11623. Prosecutions by information. Prosecutions in the district court must be by information:

1. In all cases where there has been an examination and commitment or admission to bail by a magistrate on a charge of crime; or,

2. In any case where there has been no examination or commitment or admission to bail, upon leave granted by the court for that purpose.

Related section: 11801.

History: En. Sec. 1382, Pen. C. 1895; re-en. Sec. 8927, Rev. C. 1907.

Prosecutions in the district court may be either by information, in cases where there has been an examination and commitment or admission to bail by magistrate, in which case an order of the court is not necessary; or by information filed by order of the court upon the written motion of the county attorney, which may be done without such examination. *State v. Bowser*, 21

Mont. 133, 134, 53 Pac. 179. See *State v. Vinn*, 50 Mont. 27, 32, 144 Pac. 773.

Where the information is filed by leave of court, it need not be entered in writing before the filing of the information; but, after the arrest of the defendant, the minutes of the court may be corrected so as to amend the order. *State v. Bowser*, 21 Mont. 133, 137, 53 Pac. 179.

Cited or applied as section 8927, Revised Codes, in *State v. Byrd*, 41 Mont. 585, 590, 111 Pac. 407.

11624. Leave to file information. Application for leave to file an information before an examination, commitment, or admission to bail must be made to the court on written motion by the county attorney.

History: En. Sec. 1383, Pen. C. 1895; re-en. Sec. 8928, Rev. C. 1907.

A warrant may issue on an information filed by the county attorney by leave of court on a motion in writing not verified, and the information verified only on information and belief. *State v. Shafer*, 26 Mont. 11, 15, 66 Pac. 463.

Under this section and the next preceding section, it is only where there has been no examination or commitment by a magistrate that the county attorney must move for leave to file an information. *State v. Byrd*, 41 Mont. 585, 591, 111 Pac. 407.

11625. Order of court granting. The court by an order may grant such leave, or may require an examination before a magistrate, or may, upon affidavits filed by any person, order the county attorney to file an information against the persons charged with a public offense.

History: En. Sec. 1384, Pen. C. 1895; re-en. Sec. 8929, Rev. C. 1907.

Cited or applied as section 1384, Penal Code, in *In re Weed*, 26 Mont. 241, 251, 67 Pac. 308.

11626. County attorney to file information. If leave is granted, the county attorney may at any time thereafter file an information against the person named in the order granting leave to file the same, and thereupon the defendant named in the information must be arrested, as upon the finding of an indictment.

History: En. Sec. 1385, Pen. C. 1895; re-en. Sec. 8930, Rev. C. 1907.

11627. Order entered in minutes of court. After the arrest of such defendant the clerk must immediately enter the order granting leave to file the information in the minutes of the court.

History: En. Sec. 1386, Pen. C. 1895; re-en. Sec. 8931, Rev. C. 1907.

Cited or applied as section 1386, Penal Code, in *State v. Bowser*, 21 Mont. 133, 138, 53 Pac. 179.

11628. Officers not to disclose. The fact that such leave has been granted, or that an information has been filed, must not be disclosed until after the defendant has been arrested.

History: En. Sec. 1387, Pen. C. 1895; re-en. Sec. 8932, Rev. C. 1907.

The law forbids, not only the disclosure of the fact that an information has been

filed, but even the fact that leave to file has been granted by the court, until after arrest, and also contemplates that, if the defendant is at large, the minutes of the court shall be silent as to the order

of the court therefore made granting leave to file the information. *State v. Bowser*, 21 Mont. 133, 138, 53 Pac. 179.

Cited or applied as section 1387, Penal Code, in *State v. Shafer*, 26 Mont. 11, 15, 66 Pac. 463.

11629. Prosecutions by indictment, when. Prosecutions in the district court must be by indictment in all cases where there has been no examination, commitment, or admission to bail by a magistrate, except in the cases where the court grants leave to prosecute by information before an examination and commitment by a magistrate.

History: En. Sec. 1388, Pen. C. 1895; re-en. Sec. 8933, Rev. C. 1907.

11630. Jurisdiction of justices of the peace. The justices' courts shall have jurisdiction of the following public offenses, committed within their respective counties, in which such courts are established:

1. Petit larceny.
2. Assault in the third degree, as specified in section 10987 of this code.
3. Breaches of the peace, riots, routs, affrays, committing a wilful injury to property, and all misdemeanors punishable by a fine not exceeding five hundred dollars, or imprisonment not exceeding six months, or both such fine and imprisonment.

And to act as examining and committing magistrates, as provided in this code.

History: En. Sec. 1400, Pen. C. 1895; re-en. Sec. 8934, Rev. C. 1907. Cal. Pen. C. Sec. 1425.

Cited or applied as section 1400, Penal Code, in *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 56, 60 Pac. 589.

11631. Jurisdiction of district court. The district court has jurisdiction of all public offenses not otherwise provided for.

History: En. Sec. 1401, Pen. C. 1895; re-en. Sec. 8935, Rev. C. 1907.

CHAPTER 3.

LAWFUL RESISTANCE—INTERVENTION OF OFFICERS OF JUSTICE.

- Section 11632.** Lawful Resistance, by Whom Made.
11633. By the Party, in What Cases and to What Extent.
11634. By Other Parties, in What Cases.
11635. Intervention of Officers, in What Cases.
11636. Persons Acting in Their Aid Justified.

11632. Lawful resistance, by whom made. Lawful resistance to the commission of a public offense may be made—

1. By the party about to be injured;
2. By other parties.

History: En. Sec. 1410, Pen. C. 1895; re-en. Sec. 8936, Rev. C. 1907. Cal. Pen. C. Sec. 692.

11633. By the party, in what cases and to what extent. Resistance sufficient to prevent the offense may be made by the party about to be injured—

1. To prevent an offense against his person, or his family, or some member thereof;

2. To prevent an illegal attempt by force to take or injure property in his lawful possession.

History: Ap. p. Sec. 13, p. 191, Cod. Stat. 1887; en. Sec. 1411, Pen. C. 1895; Stat. 1871; re-en. Sec. 13, 3d Div. Rev. re-en. Sec. 8937, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 13, 3d Div. Comp. Sec. 693.

11634. By other parties, in what cases. Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

History: En. Sec. 1412, Pen. C. 1895; tory same as that of preceding section. re-en. Sec. 8938, Rev. C. 1907. Earlier his- Cal. Pen. C. Sec. 694.

11635. Intervention of officers, in what cases. Public offenses may be prevented by the intervention of the officers of justice—

1. By requiring security to keep the peace;
2. By forming a police in cities and towns, and by requiring their attendance in exposed places;
3. By suppressing riots.

History: En. Sec. 1420, Pen. C. 1895; Cited or applied as section 8939, Revised re-en. Sec. 8939, Rev. C. 1907. Cal. Pen. C. Codes, in State ex rel. Quintin v. Edwards, Sec. 697. 38 Mont. 250, 265, 99 Pac. 940.

11636. Persons acting in their aid justified. When the officers of justice are authorized to act in the prevention of public offenses, other persons, who, by their command, act in their aid, are justified in so doing.

History: En. Sec. 1421, Pen. C. 1895; re-en. Sec. 8940, Rev. C. 1907. Cal. Pen. C. Sec. 698.

CHAPTER 4.

SECURITY TO KEEP THE PEACE.

- Section 11637. Information of Threatened Offense.
 11638. Examination of Complainant and Witnesses.
 11639. Warrant of Arrest.
 11640. Proceedings on Charge Being Controverted.
 11641. Person Complained of, When to Be Discharged.
 11642. Security to Keep the Peace, When Required.
 11643. Effect of Giving or Refusing to Give Security.
 11644. Person Committed for Not Giving Security.
 11645. Undertaking to Be Filed in Clerk's Office.
 11646. Security Required for Assault Committed in Court.
 11647. Undertaking, When Broken.
 11648. Undertaking, When and How to Be Prosecuted.
 11649. Evidence of Breach.
 11650. Costs Taxed Against Complainant.
 11651. Appeal by Complainant.
 11652. Security for the Peace.

11637. Information of threatened offense. A complaint may be laid before any of the magistrates mentioned in section 11619, that a person has threatened to commit an offense against the person or property of another.

History: En. Sec. 1430, Pen. C. 1895; re-en. Sec. 8941, Rev. C. 1907. Cal. Pen. C. Sec. 701.

Note.—Earlier acts relating to giving security to keep the peace were sections 1 to 11, pp. 218 to 220, Bannack Statutes;

re-enacted as sections 20 to 29, pp. 192 and 193, Codified Statutes 1871; re-enacted as sections 20 to 29, Third Division Revised Statutes 1879; re-enacted as sections 20 to 29, Third Division Compiled Statutes 1887.

The person complained of is not entitled to a jury trial in a proceeding to compel him to give security to keep the

peace. *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 56, 60 Pac. 589.

The fact that the defendant, in a prosecution for murder, had the deceased arrested and confined in peace proceedings, does not supply any motive for the murder; on the contrary, it tends to show the absence of motive. *State v. Suitor*, 43 Mont. 31, 45, 114 Pac. 112, Ann. Cas. 1912C, 230.

11638. Examination of complainant and witnesses. When the complaint is laid before such magistrate, he must examine on oath the complainant, and any witness he may produce, and must take their testimony in writing, and cause them to subscribe the same.

History: En. Sec. 1431, Pen. C. 1895; re-en. Sec. 8942, Rev. C. 1907. Cal. Pen. C. Sec. 702.

11639. Warrant of arrest. If it appears upon such examination that there is just reason to fear the commission of the offense threatened, by the person so complained of, the magistrate must issue a warrant, directed generally to the sheriff of the county, or any constable, marshal, or policeman in the state, reciting the substance of the complaint, and commanding the officer forthwith to arrest the person complained of and bring him before the magistrate.

History: En. Sec. 1432, Pen. C. 1895; re-en. Sec. 8943, Rev. C. 1907. Cal. Pen. C. Sec. 703.

11640. Proceedings on charge being controverted. When the person complained of is brought before the magistrate, if the charge be controverted, the magistrate must take testimony in relation thereto. The evidence must be reduced to writing, and subscribed by the witnesses.

History: En. Sec. 1433, Pen. C. 1895; re-en. Sec. 8944, Rev. C. 1907. Cal. Pen. C. Sec. 704.

11641. Person complained of, when to be discharged. If it appears that there is no just reason to fear the commission of the offense alleged to have been threatened, the person complained of must be discharged.

History: En. Sec. 1434, Pen. C. 1895; re-en. Sec. 8945, Rev. C. 1907. Cal. Pen. C. Sec. 705. Cited or applied as section 1434, Penal Code, in *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 54, 60 Pac. 589.

11642. Security to keep the peace, when required. If, however, there is just reason to fear the commission of the offense, the person complained of may be required to enter into an undertaking in such sum, not exceeding five thousand dollars, as the magistrate may direct, with one or more sufficient sureties, to keep the peace toward the state, and particularly toward the complainant. The undertaking is valid and binding for one year, and may, upon the renewal of the complaint, be extended for a longer period, or a new undertaking may be required.

History: En. Sec. 1435, Pen. C. 1895; re-en. Sec. 8946, Rev. C. 1907. Cal. Pen. C. Sec. 706. Cited or applied as section 1435, Penal Code, in *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 54, 60 Pac. 589.

11643. Effect of giving or refusing to give security. If the undertaking required by the last section is given, the party complained of must be discharged. If he does not give it, the magistrate must commit him

to prison, specifying in the warrant the cause of commitment, the requirement to give security, the amount thereof, and the omission to give the same.

History: En. Sec. 1436, Pen. C. 1895; re-en. Sec. 8947, Rev. C. 1907. Cal. Pen. C. Sec. 707.

An order of commitment is not insufficient because it does not fix the term of the imprisonment. *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 55, 60 Pac. 589.

11644. Person committed for not giving security. If the person complained of is committed for not giving the undertaking required, he may be discharged by any magistrate, upon giving the same.

History: En. Sec. 1437, Pen. C. 1895; re-en. Sec. 8948, Rev. C. 1907. Cal. Pen. C. Sec. 708.

11645. Undertaking to be filed in clerk's office. The undertaking must be filed by the magistrate in the office of the clerk of the district court.

History: En. Sec. 1438, Pen. C. 1895; re-en. Sec. 8949, Rev. C. 1907. Cal. Pen. C. Sec. 709.

11646. Security required for assault committed in court. A person who, in the presence of a court or magistrate, assaults or threatens to assault another, or to commit an offense against his person or property, or who contends with another with angry words, may be ordered by the court or magistrate to give security, as in this chapter provided, and if he refuse so do to, may be committed as provided in section 11643.

History: En. Sec. 1439, Pen. C. 1895; re-en. Sec. 8950, Rev. C. 1907. Cal. Pen. C. Sec. 710.

11647. Undertaking, when broken. Upon the conviction of the person complained against of a breach of the peace, the undertaking is broken.

History: En. Sec. 1440, Pen. C. 1895; re-en. Sec. 8951, Rev. C. 1907. Cal. Pen. C. Sec. 711.

What conduct will work a forfeiture of a peace bond, see note in 40 L. R. A. (N. S.) 186.

11648. Undertaking, when and how to be prosecuted. Upon the county attorney's producing evidence of such conviction to the district court of the county, the court must order the undertaking to be prosecuted, and the county attorney must thereupon commence an action upon it in the name of the state.

History: En. Sec. 1441, Pen. C. 1895; re-en. Sec. 8952, Rev. C. 1907. Cal. Pen. C. Sec. 712.

11649. Evidence of breach. In the action, the offense stated in the record of conviction must be alleged as a breach of the undertaking, and such record is conclusive evidence of the breach.

History: En. Sec. 1442, Pen. C. 1895; re-en. Sec. 8953, Rev. C. 1907. Cal. Pen. C. Sec. 713.

11650. Costs taxed against complainant. When any person complained of is discharged by the magistrate, if it appears that the prosecution was malicious, or that there were no reasonable grounds for the complaint, it is the duty of the magistrate to adjudge that the complainant pay all costs of the proceedings, and judgment must thereupon be entered against him.

History: En. Sec. 1443, Pen. C. 1895; re-en. Sec. 8954, Rev. C. 1907.

11651. Appeal by complainant. A complainant against whom costs are adjudged may appeal from such decision to the district court in the county in which such proceedings were had, upon filing an undertaking as provided for in civil actions.

History: En. Sec. 1444, Pen. C. 1895; re-en. Sec. 8955, Rev. C. 1907.

11652. Security for the peace. Security to keep the peace, or be of good behavior, cannot be required except as prescribed in this chapter.

History: En. Sec. 1445, Pen. C. 1895; re-en. Sec. 8956, Rev. C. 1907. Cal. Pen. C. Sec. 714. Cited or applied as section 1445, Penal Code, in State ex rel. Jackson v. Kennie, 24 Mont. 45, 54, 60 Pac. 589.

CHAPTER 5.

POLICE IN CITIES AND TOWNS AND THEIR ADMITTANCE AT PUBLIC MEETINGS.

Section 11653. Organization and Regulation of the Police.

11654. Force to Preserve the Peace at Public Meetings.

11653. Organization and regulation of the police. The organization and regulation of the police, in the cities and towns of this state, is governed by special laws and ordinances.

History: En. Sec. 1450, Pen. C. 1895; re-en. Sec. 8957, Rev. C. 1907. Cal. Pen. C. Sec. 719.

11654. Force to preserve the peace at public meetings. The mayor or other officer having the direction of the police of a city or town must order a force, sufficient to preserve the peace, to attend any public meeting, when he is satisfied that a breach of the peace is reasonably apprehended.

History: Ap. p. Sec. 18, p. 192, Cod. Stat. 1887; amd. Sec. 1451, Pen. C. 1895; Stat. 1871; re-en. Sec. 18, 3d Div. Rev. re-en. Sec. 8958, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 18, 3d Div. Comp. Sec. 720.

CHAPTER 6.

SUPPRESSION OF RIOTS.

Section 11655. Power of the Sheriff in Overcoming Resistance.

11656. Officer to Certify to Court the Name of Resisters, etc.

11657. Governor to Order Out Militia to Aid in Executing Process.

11658. Magistrates and Officers to Command Rioters to Disperse.

11659. To Arrest Rioters if They Do Not Disperse.

11660. Officers Who May Order Out the Militia.

11661. Commanding Officer and Troops to Obey the Order.

11662. Armed Force to Obey Orders of Whom.

11663. Sheriff to Have Charge of National Guard.

11664. Conduct of Troops.

11665. Same.

11666. Governor May Declare a County in a State of Insurrection.

11667. May Revoke the Proclamation.

11655. Power of the sheriff in overcoming resistance. When a sheriff or other public officer authorized to execute process, finds, or has reason to apprehend, that resistance will be made to the execution of the process, he may command as many male inhabitants of his county as he thinks proper to assist him in overcoming the resistance, and, if necessary, in

seizing, arresting, and confining the persons resisting, their aiders and abettors.

History: En. Sec. 19, p. 192, Cod. Stat. 1871; re-en. Sec. 19, 3d Div. Rev. Stat. 1879; re-en. Sec. 19, 3d Div. Comp. Stat. 1887; amd. Sec. 1460, Pen. C. 1895; re-en. Sec. 8959, Rev. C. 1907. Cal. Pen. C. Sec. 723.

Cited and applied as section 1460, Penal Code, in *Sears v. Gallatin County*, 20 Mont. 462, 464, 52 Pac. 204, 50 L. R. A. 405.

11656. Officer to certify to court the name of resisters, etc. The officer must certify to the court from which the process issued, the names of the persons resisting, and their aiders and abettors, to the end that they may be proceeded against for their contempt of court.

History: Ap. p. Sec. 19, p. 192, Cod. Stat. 1887; amd. Sec. 1461, Pen. C. 1895; Stat. 1871; re-en. Sec. 19, 3d Div. Rev. re-en. Sec. 8960, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 19, 3d Div. Comp. Sec. 724.

11657. Governor to order out militia to aid in executing process. If it appears to the governor that the civil power of any county is not sufficient to enable the sheriff to execute process delivered to him, or to quell any unlawful or riotous assembly, he must, upon the application of the sheriff of the county, order such portion as shall be sufficient, or the whole, if necessary, of the organized national guard or enrolled militia of the state, to proceed to the assistance of the sheriff.

History: En. Sec. 1462, Pen. C. 1895; re-en. Sec. 8961, Rev. C. 1907.

11658. Magistrates and officers to command rioters to disperse. Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff of the county and his deputies, the officials governing the town or city, or the justices of the peace and constables thereof, or any of them, must go among the persons assembled, or as near to them as possible, and command them in the name of the state immediately to disperse.

History: En. Sec. 16, p. 192, Cod. Stat. 1871; re-en. Sec. 16, 3d Div. Rev. Stat. 1879; re-en. Sec. 16, 3d Div. Comp. Stat. 1887; amd. Sec. 1463, Pen. C. 1895; re-en. Sec. 8962, Rev. C. 1907. Cal. Pen. C. Sec. 726.

Cited or applied as section 8962, Revised Codes, in *State v. Driscoll*, 49 Mont. 558, 565, 144 Pac. 153.

11659. To arrest rioters if they do not disperse. If the persons assembled do not immediately disperse, such magistrates and officers must arrest them, and to that end may command the aid of all persons present or within the county.

History: En. Sec. 1464, Pen. C. 1895; re-en. Sec. 8963, Rev. C. 1907. Cal. Pen. C. Sec. 727.

Cited or applied as section 8963, Revised Codes, in *State v. Driscoll*, 49 Mont. 558, 566, 144 Pac. 153.

11660. Officers who may order out the militia. When there is an unlawful or riotous assembly with the intent to commit a felony, or to offer violence to person or property, or to resist by force the laws of the state or of the United States, and the fact is made known to the governor by any justice of the supreme court, or judge of the district court, or sheriff of the county, or the mayor or marshal of a city, the governor may issue an order directed to the commanding officer of a division or brigade of the

organized national guard, or enrolled militia of the state, to order his command, or such part thereof as may be necessary, into active service, and to appear at a time and place therein specified, to aid the civil authorities in suppressing violence and enforcing the laws

History: En. Sec. 1465, Pen. C. 1895; re-en. Sec. 8964, Rev. C. 1907. Cal. Pen. C. Sec. 728.

11661. Commanding officer and troops to obey the order. The organized national guard or enrolled militia, or such portion thereof as shall be called into active service, as provided in the preceding section, must appear at the time and place appointed, fully armed and equipped.

History: En. Sec. 1466, Pen. C. 1895; re-en. Sec. 8965, Rev. C. 1907.

11662. Armed force to obey orders of whom. When an armed force is called out for the purpose of suppressing an unlawful or riotous assembly, or arresting the offenders, and is placed under the temporary direction of any civil officer, as provided in the following section, it must obey the orders in relation thereto of such civil officer.

History: En. Sec. 1467, Pen. C. 1895; re-en. Sec. 8966, Rev. C. 1907.

11663. Sheriff to have charge of national guard. Whenever any portion of the national guard or enrolled militia is called into active service to suppress an insurrection or rebellion, to disperse a mob, or to enforce the execution of the laws of this state, or of the United States, it is competent for the commander-in-chief, or for the general acting in his stead, to place such troops under the temporary direction of the sheriff of any county.

History: En. Sec. 1468, Pen. C. 1895; re-en. Sec. 8967, Rev. C. 1907.

Codes, in *In re McDonald*, 49 Mont. 454, 461, 143 Pac. 947, Ann. Cas. 1916A, 1166, L. R. A. 1915B, 988.

Cited or applied as section 8967, Revised

11664. Conduct of troops. When the commander-in-chief, or general acting in his stead, shall call troops into active service, and shall not place them under the temporary direction of any civil officer, the commanding officer shall use his own discretion with respect to the propriety of attacking or firing upon, any mob or unlawful assembly, but no officer who has been called out to sustain the civil authorities shall, under any pretense, or in compliance with any order, fire blank cartridges upon any mob or unlawful assemblage, under penalty of being cashiered by sentence of a court-martial; provided, that nothing in this chapter shall be construed as prohibiting any such troops from firing or charging upon such mob or assembly, without the order of such civil officer, in case they shall first be attacked or fired upon, or forcibly resisted in discharge of their duties.

History: En. Sec. 1469, Pen. C. 1895; re-en. Sec. 8968, Rev. C. 1907.

11665. Same. Every endeavor must be used, both by the magistrates and civil officers, and by the officer commanding the troops, which can be made consistently with the preservation of life, to induce or force the rioters to disperse, before an attack is made upon them by which their lives are endangered.

History: En. Sec. 1470, Pen. C. 1895; re-en. Sec. 8969, Rev. C. 1907.

11666. Governor may declare a county in a state of insurrection. When the governor is satisfied that the execution of civil or criminal process has been forcibly resisted in any county by bodies of men, or that combinations to resist the execution of process by force exist in any county, and that the power of the county has been exerted, and has not been sufficient to enable the officers having the process to execute it, he may, on the application of the officer, or of the county attorney, or judge of the district court of the county, by proclamation, published in such papers as he may direct, declare the county to be in a state of insurrection, and may order into the service of the state such number and description of the organized national guard, or volunteer uniformed companies, or other militia of the state, as he deems necessary, to serve for such term and under the command of such officer as he may direct.

History: En. Sec. 1471, Pen. C. 1895; re-en. Sec. 8970, Rev. C. 1907.

11667. May revoke the proclamation. The governor may, when he thinks proper, revoke the proclamation authorized by the last section, or declare that it shall cease at the time and in the manner directed by him.

History: En. Sec. 1472, Pen. C. 1895; re-en. Sec. 8971, Rev. C. 1907.

CHAPTER 7.

IMPEACHMENTS.

- Section 11668. Officers Liable to Impeachment.**
 11669. Sole Power of Impeachment.
 11670. Articles, How Prepared—Trial by Senate.
 11671. Articles of Impeachment.
 11672. Time of Hearing—Service of Defendant.
 11673. Service, How Made.
 11674. Proceedings on Failure to Appear.
 11675. Counsel May Be Appointed.
 11676. Defendant, After Appearance, May Answer or Demur.
 11677. If Demurrer Is Overruled, Defendant Must Answer.
 11678. Senate to Be Sworn.
 11679. Two-thirds Necessary to a Conviction.
 11680. Judgment on Conviction, How Pronounced.
 11681. The Same.
 11682. Nature of the Judgment.
 11683. Effect of Judgment of Suspension.
 11684. Impeachment Disqualifies Until Acquittal—Vacancy, How Filled.
 11685. Presiding Officer When Lieutenant-Governor Is Impeached.
 11686. Impeachment Not a Bar to Indictment.

11668. Officers liable to impeachment. The governor and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office.

History: En. Sec. 1500, Pen. C. 1895; re-en. Sec. 8972, Rev. C. 1907. Cal. Pen. C. Sec. 737.

Note.—Our present impeachment laws are substantially the same as the territorial acts which provided for trial by the council. See sections 41 to 62, pp. 196 to 199, Codified Statutes 1871; re-enacted as sections 41 to 62, Third Division Revised Statutes 1879; re-enacted as sections 41 to 63, Third Division Compiled Statutes 1887.

This section having the same language

as section 17, article v, of the constitution, is given the same construction, and does not include senators within the terms "judicial officers" or "state officers." State ex rel. Haviland v. Beadle, 42 Mont. 174, 180, 111 Pac. 720.

Act committed by officer prior to commencement of term as ground for impeachment, see notes in Ann. Cas. 1916B, 707; 50 L. R. A. (N. S.) 553.

Privilege as to proceedings for impeachment, see note in 25 L. R. A. (N. S.) 455.

11669. Sole power of impeachment. The sole power of impeachment vests in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose, and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

History: En. Sec. 1501, Pen. C. 1895; re-en. Sec. 8973, Rev. C. 1907.

11670. Articles, how prepared—Trial by senate. All impeachments must be by resolution adopted, originated in, and conducted by managers elected by the house of representatives, who must prepare articles of impeachment, present them at the bar of the senate, and prosecute the same.

History: En. Sec. 1502, Pen. C. 1895; re-en. Sec. 8974, Rev. C. 1907. Cal. Pen. C. Sec. 738.

11671. Articles of impeachment. When an officer is impeached by the house of representatives, the articles of impeachment must be delivered to the president of the senate.

History: En. Sec. 1503, Pen. C. 1895; re-en. Sec. 8975, Rev. C. 1907. Cal. Pen. C. Sec. 739.

11672. Time of hearing—Service of defendant. The senate must assign a day for the hearing of the impeachment, and inform the house of representatives thereof. The president of the senate must cause a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed, to be served on the defendant not less than ten days before the day fixed for the hearing.

History: En. Sec. 1504, Pen. C. 1895; re-en. Sec. 8976, Rev. C. 1907. Cal. Pen. C. Sec. 740.

11673. Service, how made. The service must be made upon the defendant personally, or if he cannot, upon diligent inquiry, be found within the state, the senate, upon proof of that fact, may order publication to be made, in such manner as it may deem proper, of a notice requiring him to appear at a specified time and place and answer the articles of impeachment.

History: En. Sec. 1505, Pen. C. 1895; re-en. Sec. 8977, Rev. C. 1907. Cal. Pen. C. Sec. 741.

11674. Proceedings on failure to appear. If the defendant does not appear, the senate, upon proof of service or publication, as provided in the last two sections, may, of its own motion or for cause shown, assign another day for hearing the impeachment, or may proceed, in the absence of the defendant, to trial and judgment.

History: En. Sec. 1506, Pen. C. 1895; re-en. Sec. 8978, Rev. C. 1907. Cal. Pen. C. Sec. 742.

11675. Counsel may be appointed. If the defendant appear, and is unable to procure the assistance of counsel, it is the duty of the president of the senate to appoint some suitable person to assist him in his defense;

if the defendant is served by publication and fails to appear, it is the duty of the president of the senate to appoint some person or counsel to appear in his behalf and make defense for him.

History: En. Sec. 1507, Pen. C. 1895; re-en. Sec. 8979, Rev. C. 1907.

11676. Defendant, after appearance, may answer or demur. When the defendant appears, he may in writing object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty, which plea must be entered upon the journal, and puts in issue every material allegation of the articles of impeachment.

History: En. Sec. 1508, Pen. C. 1895; re-en. Sec. 8980, Rev. C. 1907. Cal. Pen. C. Sec. 743.

11677. If demurrer is overruled, defendant must answer. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, the senate must render judgment of conviction against him. If he plead not guilty or refuses to plead, the senate must, at such time as it may appoint, proceed to try the impeachment.

History: En. Sec. 1509, Pen. C. 1895; re-en. Sec. 8981, Rev. C. 1907. Cal. Pen. C. Sec. 744.

11678. Senate to be sworn. At the time and place appointed, and before the senate proceeds to act on the impeachment, the secretary must administer to the president of the senate, and the president of the senate to each of the members of the senate then present, an oath truly and impartially to hear, try, and determine the impeachment; and no member of the senate can act or vote upon the impeachment, or upon any question arising thereon, without having taken such oath.

History: En. Sec. 1510, Pen. C. 1895; re-en. Sec. 8982, Rev. C. 1907. Cal. Pen. C. Sec. 745.

11679. Two-thirds necessary to a conviction. The defendant cannot be convicted on impeachment without the concurrence of two-thirds of the members elected, voting by ayes and noes, and if two-thirds of the members elected do not concur in a conviction, he must be acquitted.

History: En. Sec. 1511, Pen. C. 1895; re-en. Sec. 8983, Rev. C. 1907. Cal. Pen. C. Sec. 746.

11680. Judgment on conviction, how pronounced. After conviction, the senate must, at such time as it may appoint, pronounce judgment, in the form of a resolution entered upon the journals of the senate.

History: En. Sec. 1512, Pen. C. 1895; re-en. Sec. 8984, Rev. C. 1907. Cal. Pen. C. Sec. 747.

11681. The same. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the senate.

History: En. Sec. 1513, Pen. C. 1895; re-en. Sec. 8985, Rev. C. 1907. Cal. Pen. C. Sec. 748.

11682. Nature of the judgment. The judgment may be that the defendant be suspended, or that he be removed from office and disqualified to hold any office of honor, trust, or profit under the state.

History: En. Sec. 1514, Pen. C. 1895; re-en. Sec. 8986, Rev. C. 1907. Cal. Pen. C. Sec. 749.

11683. Effect of judgment of suspension. If judgment of suspension is given, the defendant, during the continuance thereof, is disqualified from receiving the salary, fees, or emoluments of the office.

History: En. Sec. 1515, Pen. C. 1895; re-en. Sec. 8987, Rev. C. 1907. Cal. Pen. C. Sec. 750.

11684. Impeachment disqualifies until acquittal—Vacancy, how filled. Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, such officer is temporarily suspended from his office, and cannot act in his official capacity until he is acquitted. Upon such suspension of any officer, other than the governor, his office must be at once temporarily filled by an appointment made by the governor, with the advice and consent of the senate, until the acquittal of the party impeached; or, in case of his removal, until the vacancy is filled at the next election as required by law.

History: En. Sec. 1516, Pen. C. 1895; re-en. Sec. 8988, Rev. C. 1907. Cal. Pen. C. Sec. 751.

11685. Presiding officer when lieutenant-governor is impeached. If the lieutenant-governor is impeached, notice of the impeachment must be immediately given to the senate by the house of representatives, that another president may be chosen.

History: En. Sec. 1517, Pen. C. 1895; re-en. Sec. 8989, Rev. C. 1907. Cal. Pen. C. Sec. 752.

11686. Impeachment not a bar to indictment. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred thereby.

History: En. Sec. 1518, Pen. C. 1895; re-en. Sec. 8990, Rev. C. 1907. Cal. Pen. C. Sec. 753.

CHAPTER 8.

REMOVAL OF OFFICERS OTHERWISE THAN BY IMPEACHMENT.

- Section** 11687. Officers Subject to Removal.
 11688. Accusation to Be Presented by the Grand Jury.
 11689. Form of Accusation.
 11690. To Be Transmitted to the County Attorney, and Copy Served.
 11691. Proceedings, if Defendant Does Not Appear.
 11692. Defendant May Object to or Deny the Accusation.
 11693. Form of Objection.
 11694. Manner of Denial.
 11695. If Objections Overruled, Defendant Must Answer.
 11696. Proceedings on Plea of Guilty, Refusal to Answer, etc.
 11697. Trial by Jury.
 11698. State and Defendant Entitled to Process for Witnesses.
 11699. Judgment Upon Conviction, and Its Form.
 11700. Appeal, How Taken—Defendant to Be Suspended and Vacancy Filled.
 11701. Proceedings for the Removal of a County Attorney.
 11702. Removal of Public Officers by Summary Proceedings.

11687. Officers subject to removal. All officers not liable to impeachment are subject to removal for misconduct or malfeasance in office, as provided in this chapter.

History: En. Sec. 1530, Pen. C. 1895; re-en. Sec. 8991, Rev. C. 1907.

11688. Accusation to be presented by the grand jury. An accusation in writing against any district, county, township, or municipal officer, for wilful or corrupt misconduct or malfeasance in office, may be presented by the grand jury of the county for which the officer accused is elected or appointed.

History: En. Sec. 1531, Pen. C. 1895; re-en. Sec. 8992, Rev. C. 1907. Cal. Pen. C. Sec. 758.

This section was intended to apply to those cases only in which the accused has been guilty of wilful or corrupt misconduct or malfeasance. State ex rel. Rowe v. District Court, 44 Mont. 318, 323, 119 Pac. 1103, Ann. Cas. 1913B, 396.

The power granted to the district court by section 11701 in a proceeding looking to the removal of the county attorney, to appoint the county attorney of an adjoining

county to act as prosecuting officer, may only be exercised when charges are preferred by a grand jury under this section. State ex rel. McGrade v. District Court, 52 Mont. 371, 374, 157 Pac. 1157.

Cited or applied as section 1531, Penal Code, in State ex rel. Clark v. District Court, 30 Mont. 442, 444, 76 Pac. 1005.

Removal of public officers for cause, see note in 135 A. S. R. 250.

Civil or criminal nature of proceeding for removal of public officer, see notes in 20 Ann. Cas. 112; Ann. Cas. 1915B, 1145.

11689. Form of accusation. The accusation must state the offense charged, in ordinary and concise language, and without repetition.

History: En. Sec. 1532, Pen. C. 1895; re-en. Sec. 8993, Rev. C. 1907. Cal. Pen. C. Sec. 759.

11690. To be transmitted to the county attorney, and copy served. The accusation must be delivered by the foreman of the grand jury to the county attorney of the county, except when he is the officer accused, who must cause a copy thereof to be served upon the defendant, and require, by notice in writing of not less than ten days, that he appear before the district court of the county, at a time mentioned in the notice, and answer the accusation. The original accusation must then be filed with the clerk of the court.

History: En. Sec. 1533, Pen. C. 1895; re-en. Sec. 8994, Rev. C. 1907. Cal. Pen. C. Sec. 760.

11691. Proceedings, if defendant does not appear. The defendant must appear at the time appointed in the notice and answer the accusation, unless for some sufficient cause the court assign another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

History: En. Sec. 1534, Pen. C. 1895; re-en. Sec. 8995, Rev. C. 1907. Cal. Pen. C. Sec. 761.

11692. Defendant may object to or deny the accusation. The defendant may answer the accusation either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same.

History: En. Sec. 1535, Pen. C. 1895; re-en. Sec. 8996, Rev. C. 1907. Cal. Pen. C. Sec. 762.

11693. Form of objection. If he objects to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection.

History: En. Sec. 1536, Pen. C. 1895; re-en. Sec. 8997, Rev. C. 1907. Cal. Pen. C. Sec. 763.

11694. Manner of denial. If he denies the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

History: En. Sec. 1537, Pen. C. 1895; re-en. Sec. 8998, Rev. C. 1907. Cal. Pen. C. Sec. 764.

11695. If objections overruled, defendant must answer. If an objection to the sufficiency of the accusation is not sustained, the defendant must answer thereto forthwith.

History: En. Sec. 1538, Pen. C. 1895; re-en. Sec. 8999, Rev. C. 1907. Cal. Pen. C. Sec. 765.

11696. Proceedings on plea of guilty, refusal to answer, etc. If the defendant pleads guilty, the court must render judgment of conviction against him. If he denies the matters charged or refuses to answer the accusation, the court must immediately, or at such time as it may appoint, proceed to try the accusation.

History: En. Sec. 1539, Pen. C. 1895; re-en. Sec. 9000, Rev. C. 1907. Cal. Pen. C. Sec. 766.

11697. Trial by jury. The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.

History: En. Sec. 1540, Pen. C. 1895; re-en. Sec. 9001, Rev. C. 1907. Cal. Pen. C. Sec. 767.

Right to jury trial in proceeding for removal of public officer, see notes in 3 A. L. R. 232; 8 A. L. R. 1476.

11698. State and defendant entitled to process for witnesses. The county attorney and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses, as upon a trial of an indictment.

History: En. Sec. 1541, Pen. C. 1895; re-en. Sec. 9002, Rev. C. 1907. Cal. Pen. C. Sec. 768.

11699. Judgment upon conviction, and its form. Upon a conviction, the court must, at such time as it may appoint, pronounce judgment that defendant be removed from office; but, to warrant a removal, the judgment must be entered upon the minutes, and the causes of removal must be assigned therein.

History: En. Sec. 1542, Pen. C. 1895; re-en. Sec. 9003, Rev. C. 1907. Cal. Pen. C. Sec. 769.

11700. Appeal, how taken—Defendant to be suspended and vacancy filled. From a judgment of removal an appeal may be taken to the

supreme court, in the same manner as from a judgment in a civil action; but until such judgment is reversed, the defendant is suspended from his office. Pending the appeal, the office must be filled as in case of a vacancy.

History: En. Sec. 1543, Pen. C. 1895; re-en. Sec. 9004, Rev. C. 1907. Cal. Pen. C. Sec. 770.

Cited or applied as section 1543, Penal Code, in *State ex rel. Clark v. District Court*, 30 Mont. 442, 444, 76 Pac. 1006.

11701. Proceedings for the removal of a county attorney. The same proceedings may be had on like grounds for the removal of a county attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to a judge of the district court of the county, who must thereupon appoint some one to act as prosecuting officer in the matter, or place the accusation in the hands of the county attorney of an adjoining county, and require him to conduct the proceedings.

History: En. Sec. 1544, Pen. C. 1895; re-en. Sec. 9005, Rev. C. 1907. Cal. Pen. C. Sec. 771.

The power to appoint a prosecuting officer under this section applies only to proceedings instituted by the grand jury under section 11688; it does not confer upon the court the power to impose any duty upon a county attorney of another county as such, except in the particular emergency named, nor does it authorize the calling in of a county attorney from any other

than an adjoining county. *State ex rel. McGrade v. District Court*, 52 Mont. 371, 374, 157 Pac. 1157.

A county attorney called into an adjoining county by appointment under this section, to act as prosecuting officer in a proceeding for the removal of a county attorney upon an accusation by a taxpayer charging neglect of duty, is not entitled to compensation for services thus rendered. *State ex rel. McGrade v. District Court*, 52 Mont. 371, 376, 157 Pac. 1157.

11702. Removal of public officers by summary proceedings. When an accusation in writing, verified by the oath of any person, is presented to the district court, alleging that any officer within the jurisdiction of the court has been guilty of knowingly, wilfully, and corruptly charging and collecting illegal fees for services rendered, or to be rendered, in his office, or has wilfully refused or neglected to perform the official duties pertaining to his office, the court must cite the party charged to appear before the court at a time not more than ten nor less than five days from the time the accusation was presented; and on that day, or some other subsequent day not more than forty days from the date on which the accusation was presented, must proceed to hearing, in a summary manner, or trial, upon the accusation and evidence offered in support of the same, and the answer and evidence offered by the party accused; provided, if the charge be for the charging and collecting of illegal fees or salaries, the trial must be by jury, if the defendant so demands, and conducted in all respects and in the same manner as the trial of an indictment for a misdemeanor, and the defendant shall be entitled, as a matter of defense, to offer evidence of, and the jury under proper instructions shall consider, his good faith or honest mistake, if any be shown, and the value received by the state, county, township, or municipality against whom the charges or fees were made. If, upon such hearing or trial, the charge is sustained, the court must enter a judgment that the party accused be deprived of his office, and for such costs as are allowed in civil cases; and if the charge is not

sustained, the court may enter a judgment against the complaining witness for costs as are allowed in civil cases.

Related sections: 4911, 11588.

History: En. Sec. 1545, Pen. C. 1895; re-en. Sec. 9006, Rev. C. 1907; amd. Sec. 1, Ch. 25, L. 1917. Cal. Pen. C. Sec. 772.

An officer being subject to removal under this section for collecting illegal fees irrespective of a wilful or corrupt motive, an allegation in a charge against a police judge that in violation of the statute he acted wilfully, intentionally, and corruptly may be treated as surplusage. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 326, 119 Pac. 1103, Ann. Cas. 1913B, 396.

This section applies to those derelictions which are the result of incompetency or inattention to official duties, and though the proceeding is quasi-criminal, the question of intent was immaterial, and therefore the fact that the defendant acted in good faith and on the advice of the attorney-general was no defense. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 323, 119 Pac. 1103, Ann. Cas. 1913B, 396.

A public officer is removable for delinquency in demanding illegal fees, or in the performance of the duties enjoined by law, without reference to whether he acted in ignorance of the law, or in good faith and without a guilty intent, or under the erroneous advice of the attorney-general. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 326, 119 Pac. 1103, Ann. Cas. 1913B, 396.

The proceeding authorized by this section is quasi-criminal in character, but the accused is not entitled to a jury trial. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 327, 119 Pac. 1103, Ann. Cas. 1913B, 396; *State ex rel. Payne v. District Court*, 53 Mont. 350, 356, 165 Pac. 294. See, also, *State ex rel. McGrade v. District Court*, 52 Mont. 371, 373, 157 Pac. 1157.

The district court may remove a police judge from office for illegally collecting a fee from a defendant for approving a bond filed in support of an appeal from a judgment of conviction for a violation of a city ordinance. *State ex rel. Rowe v. District Court*, 45 Mont. 205, 209, 122 Pac. 270.

An accusation for the removal of a sheriff from office because of neglect of official duty, which was entitled in the name of the state "on the accusation" of certain persons, was sufficient in form where it was apparent from the whole body of the document that a public proceeding and not a private action was thereby initiated, and it was not necessary to allege therein that the accuser was an elector of the county in which the accused held office. *State v. Driscoll*, 49 Mont. 558, 560, 561, 144 Pac. 153.

One of the methods provided by law for the removal of an officer from office is a

summary proceeding, as prescribed in this section, initiated upon a written accusation verified by the oath of "any person." *State v. Driscoll*, 49 Mont. 558, 561, 144 Pac. 153.

To charge the existence of a riot for failure to suppress which a sheriff was sought to be removed from office, it was not necessary to employ the language of the statute defining riot; a statement of facts from which its existence was inferable being sufficient. *State v. Driscoll*, 49 Mont. 558, 565, 144 Pac. 153.

An accusation against a sheriff for neglect of duty, in failing to suppress a riot, and asking his removal from office, is not objectionable because specific crimes therein mentioned as having been committed during the riot were not described with the particularity required in an indictment or information against the perpetrators thereof, their commission having been incidental only, and in nowise affecting the duty of the sheriff in the premises. *State v. Driscoll*, 49 Mont. 558, 566, 144 Pac. 153.

The proceeding under this section, though it may be instituted by a private person, is a public proceeding, and, except that it is summary in its nature, is to be classed as a prosecution for crime. *State ex rel. Rowe v. District Court*, 44 Mont. 318, 324, 119 Pac. 1103, Ann. Cas. 1913B, 396; *State v. Driscoll*, 49 Mont. 558, 560, 144 Pac. 153; *State ex rel. McGrade*, 52 Mont. 371, 373, 157 Pac. 1157.

Proceedings under this section being of a criminal nature, the district court is empowered by section 12007 to appoint some attorney in such a proceeding to perform the duties of the county attorney whenever the latter is absent on account of either neglect or sickness, or is disqualified for any reason. *State ex rel. McGrade v. District Court*, 52 Mont. 371, 373, 374, 157 Pac. 1157.

The term "fees," used in the codes, is somewhat elastic, and as employed in this section is broad enough to comprehend both per diem and expenses. *State ex rel. Payne v. District Court*, 53 Mont. 350, 353, 165 Pac. 294; *State v. Story*, 53 Mont. 573, 575, 576, 165 Pac. 748.

The gist of the offense condemned by this section is the collection of illegal fees by virtue of official position. To constitute the offense it must be made to appear that the accused is the incumbent of a public office, that, acting by virtue of his office, he collected certain fees, and that the fees were illegal; that is, not authorized by law under the circumstances of the particular case. *State ex rel. Payne v. District Court*, 53 Mont. 350, 353, 354, 165 Pac. 294.

Fees are illegal within the meaning of this section if collected for services never rendered, or never intended to be rendered; if collected for services rendered for which no compensation is allowed by law; or if collected for services at a rate higher than the law allows therefor. *State ex rel. Payne v. District Court*, 53 Mont. 350, 354, 165 Pac. 294.

An accusation charging an officer with collecting illegal fees will be held sufficient if it clearly and distinctly sets forth the facts constituting the offense in ordinary and concise language and in such manner that a person of common understanding may know what is intended. It will also be sufficient if it shows on its face that the fees collected were illegal, and a statement that they were illegal is not required. *State ex rel. Payne v. District Court*, 53 Mont. 350, 354, 355, 165 Pac. 294; *State v. Story*, 53 Mont. 573, 575, 165 Pac. 748.

This section is not unconstitutional on the ground that the prosecution is not by information or indictment. The proceedings therein prescribed do not necessarily partake of the nature of a criminal prosecution, and the legislature was left entirely free to enact such statutes as it might see fit providing for the removal of officers other than those who may be removed by impeachment. *State ex rel. Payne v. District Court*, 53 Mont. 350, 356, 165 Pac. 294.

A proceeding brought for the removal of a public officer under this section is not a criminal action in the sense that it must be brought in the name of the state, that the public prosecutor must conduct it, or a jury be called to try the accused. *State ex rel. Payne v. District Court*, 53 Mont. 350, 356, 357, 165 Pac. 294; *State ex rel. McGrade v. District Court*, 52 Mont. 371, 373, 157 Pac. 1157, distinguished.

As this section makes no provision for an appeal or other means of review, mandamus lies to compel the district court to proceed with the trial of an accusation for the removal of a public officer under this section. *State ex rel. Payne v. District Court*, 53 Mont. 350, 357, 165 Pac. 294.

A county commissioner is not entitled to a fee for attending to business of the county, other than meeting with the board of commissioners, and for "inspecting and overseeing road-work," where he is not acting pursuant to any previous direction of the board; hence, if he makes a charge against the county for such services, as county commissioner, and collects the money therefor, he is guilty of charging and collecting illegal fees by virtue of his official position, and he may be removed from office therefor under this section. *State v. Story*, 53 Mont. 573, 165 Pac. 748; *State v. Callahan*, 53 Mont. 584, 165 Pac. 753; *State v. Overstreet*, 53 Mont. 585, 165 Pac. 753.

"Illegal fees" are any moneys collected or attempted to be collected by such officer from any source whatever, whether as mileage, per diem, or specific charge for service rendered in his office, without authority of law for such collection, though done in good faith and for efficient service performed for the public. *State v. Story*, 53 Mont. 573, 576, 165 Pac. 748.

In no way can it be ascertained whether an officer has collected illegal fees within the meaning of this section without a reference to the various code sections in the chapter on "Salaries and Fees of Officers." *State v. Story*, 53 Mont. 573, 578, 165 Pac. 748.

The amendment of this section, by making a criminal intent the gist of the offense, deprived the district court of jurisdiction of a prosecution instituted prior thereto, since no saving clause is provided by the constitution or statute. *State ex rel. Paige v. District Court*, 54 Mont. 332, 169 Pac. 1180.

In an action for the removal of county officers brought by the attorney-general in the name and on behalf of the state, the county, and not the attorney-general personally, is liable for the payment of witness fees. *Griggs v. Glass*, 58 Mont. 476, 479, 193 Pac. 564.

What constitutes wilful misconduct in office as ground for removal of officer, see note in *Ann. Cas.* 1912C, 1083.

CHAPTER 9.

LOCAL JURISDICTION OF PUBLIC OFFENSES.

- Section 11703. Jurisdiction of Offenses Committed in This State.
 11704. Offenses Committed Without, but Consummated Within This State.
 11705. When an Inhabitant of This State Is Concerned in a Duel Out of the Same, and a Party Wounded Dies Therein.
 11706. Leaving the State to Evade the Statute Against Dueling.
 11707. Offense Committed Partly in One County and Partly in Another.
 11708. Committed on the Boundary, etc., of Two or More Counties.
 11709. Jurisdiction of an Offense on Board a Vessel or Car.
 11710. Jurisdiction for Kidnaping or Abduction.
 11711. Jurisdiction of an Indictment for Bigamy or Incest.
 11712. Property Feloniously Taken in One County and Brought Into Another.
 11713. Jurisdiction for Escaping From Prison
 11714. Jurisdiction for Treason Committed Out of the State.
 11715. Jurisdiction for Stealing, etc., Property Out of State, and Brought Therein.
 11716. Jurisdiction for Murder, etc., Where the Injury Was Inflicted in One County, and the Party Dies Out of That County.
 11717. On an Indictment Against an Accessory.
 11718. Of Principals Who Are Not Present, etc., at Commission of the Principal Offense.
 11719. Conviction or Acquittal in Another State a Bar, Where the Jurisdiction Is Concurrent.
 11720. Conviction or Acquittal in Another County a Bar, Where the Jurisdiction Is Concurrent.
 11721. Jurisdiction of Prizefight.

11703. Jurisdiction of offenses committed in this state. Every person is liable to punishment by the laws of this state, for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States.

History: En. Sec. 1560, Pen. C. 1895; re-en. Sec. 9007, Rev. C. 1907. Cal. Pen. C. Sec. 777.

11704. Offenses committed without, but consummated within this state. When the commission of a public offense, commenced without the state, is consummated within its boundaries, the defendant is liable to punishment therefor in this state though he was out of the state at the time of the commission of the offense charged. If he consummated it in this state, through the intervention of an innocent or guilty agent, or any other means proceeding directly from himself, in such case the jurisdiction is in the county in which the offense is consummated.

History: En. Sec. 1561, Pen. C. 1895; re-en. Sec. 9008, Rev. C. 1907. Cal. Pen. C. Sec. 778.

Under this section and sections 11712 and 11715 permitting conviction in any county into which the guilty person takes stolen property, there is no variance between the venue as laid in an information charging larceny of horses in a certain county of this state, and proof that the horses were stolen in Canada, and driven into said county. *State v. De Wolfe*, 29 Mont. 415, 421, 74 Pac. 1084.

Under this section and sections 11712

and 11715, one who commits larceny may be convicted of that crime in any county into which he takes the stolen property. *State v. De Wolfe*, 29 Mont. 415, 421, 74 Pac. 1084.

Place where crime is deemed to have been committed, see note in 44 A. S. R. 79.

Locality of crime committed by shooting or striking across state boundary, see note in 28 L. R. A. 59.

Locality of crime committed through the agency of the mails or of carriers, see note in 19 L. R. A. 775.

11705. When an inhabitant of this state is concerned in a duel out of the same, and a party wounded dies therein. When an inhabitant or resident of this state, by previous appointment or engagement, fights a duel or is concerned as a second therein, out of the jurisdiction of this state, and in the duel a wound is inflicted upon a person, whereof he dies in this state, the jurisdiction of the offense is in the county where the death happens.

History: En. Sec. 1562, Pen. C. 1895; re-en. Sec. 9009, Rev. C. 1907. Cal. Pen. C. Sec. 779.

Jurisdiction of homicide where mortal wound is inflicted in one state or country and death occurs in another, see note in 39 L. R. A. (N. S.) 822.

11706. Leaving the state to evade the statute against dueling. When an inhabitant of this state leaves the same for the purpose of evading the operation of the provisions of the code relating to dueling and challenges to fight, with the intent or for the purpose of doing any of the acts prohibited therein, the jurisdiction is in the county of which the offender was an inhabitant when the offense was committed.

History: En. Sec. 1563, Pen. C. 1895; re-en. Sec. 9010, Rev. C. 1907. Cal. Pen. C. Sec. 780.

11707. Offense committed partly in one county and partly in another. When a public offense is committed in part in one county and in part in another, or the acts or effects thereof constituting or requisite to the consummation of the offense occur in two or more counties, the jurisdiction is in either county.

History: En. Sec. 14, p. 220, Bannack Stat.; re-en. Sec. 32, p. 194, Cod. Stat. 1871; re-en. Sec. 32, 3d Div. Rev. Stat. 1879; re-en. Sec. 32, 3d Div. Comp. Stat. 1887; amd. Sec. 1564, Pen. C. 1895; re-en. Sec. 9011, Rev. C. 1907. Cal. Pen. C. Sec. 781.

An information stating generally that a crime was committed in Missoula county, but containing no other allegation as to venue, is sufficient; it not being necessary

that it should allege that the crime was not committed on the Fort Missoula military reservation, which is situated within that county. Judicial notice may be taken of the fact that the reservation in question is situated in Missoula county. *State v. Tully*, 31 Mont. 365, 369, 78 Pac. 760, 3 Ann. Cas. 824.

Validity of statute fixing place of prosecution of a crime committed in two counties, see note in 4 Ann. Cas. 1194.

11708. Committed on the boundary, etc., of two or more counties. When a public offense is committed on the boundary of two or more counties, or within five hundred yards thereof, the jurisdiction is in either county.

History: En. Sec. 1565, Pen. C. 1895; re-en. Sec. 9012, Rev. C. 1907. Cal. Pen. C. Sec. 782.

Cited or applied as section 1565, Penal Code, in *State v. Tully*, 31 Mont. 365, 369, 78 Pac. 760, 3 Ann. Cas. 824.

11709. Jurisdiction of an offense on board a vessel or car. When an offense is committed in this state, on board a vessel navigating a river, bay, slough, lake, or canal, or lying therein, in the prosecution of her voyage, the jurisdiction is in any county through which the vessel is navigated in the course of her voyage, or in the county where the voyage terminates; and when the offense is committed in this state, on a railroad train or car prosecuting its trip, the jurisdiction is in any county through which the

train or car passes in the course of her trip, or in the county where the trip terminates.

History: En. Sec. 1566, Pen. C. 1895; re-en. Sec. 9013, Rev. C. 1907. Cal. Pen. C. Sec. 783.

of offense committed while upon a public conveyance or at a station or depot upon the route thereof, see notes in 11 A. L. R. 1020; 9 Ann. Cas. 616.

Constitutionality of statute fixing venue

11710. Jurisdiction for kidnaping or abduction. The jurisdiction of the following cases is in any county in which the offense was committed, or into or out of which the person upon whom the offense was committed has been brought:

1. For forcibly, fraudulently taking, inveigling, or kidnaping any person to be sent out of the state for any purpose;

2. For the taking or enticing away of any female for the purpose of prostitution or concubinage;

3. For the taking, decoying, or enticing away a child under the age of fifteen years, with intent to conceal or detain it from its parents, guardians, or other person having lawful charge thereof.

History: Ap. p. Sec. 16, p. 221, Bannack Stat.; en. Sec. 33, p. 194, Cod. Stat. 1871; re-en. Sec. 33, 3d Div. Rev. Stat. 1879; re-en. Sec. 33, 3d Div. Comp Stat.

1887; amd. Sec. 1567, Pen. C. 1895; re-en. Sec. 9014, Rev. C. 1907. Cal. Pen. C. Sec. 784.

11711. Jurisdiction of an indictment for bigamy or incest. When the offense, either of bigamy or incest, is committed in one county and the defendant is apprehended in another, the jurisdiction is in either county.

Related section: 11029.

History: En. Sec. 1568, Pen. C. 1895;

re-en. Sec. 9015, Rev. C. 1907. Cal. Pen. C. Sec. 785.

11712. Property feloniously taken in one county and brought into another. When property taken in one county by burglary, robbery, or larceny has been brought into another, the jurisdiction of the offense is in either county. But if at any time before the conviction of the defendant in the latter, he is indicted in the former county, the sheriff of the latter county must, upon demand, deliver him to the sheriff of the former.

History: En. Sec. 17, p. 221, Bannack Stat.; re-en. Sec. 34, p. 195, Cod. Stat. 1871; re-en. Sec. 34, 3d Div. Rev. Stat. 1879; re-en. Sec. 34, 3d Div. Comp. Stat. 1887; amd. Sec. 1569, Pen. C. 1895; re-en. Sec. 9016, Rev. C. 1907. Cal. Pen. C. Sec. 786.

Code, in *State v. De Wolfe*, 29 Mont. 415, 421, 74 Pac. 1084.

Prosecution for larceny of one who receives or sells within the state property actually stolen with his connivance by another in another state, see note in 42 L. R. A. (N. S.) 207.

Cited or applied as section 1569, Penal

11713. Jurisdiction for escaping from prison. The jurisdiction of a criminal action for escaping from prison is in any county of the state.

History: En. Sec. 1570, Pen. C. 1895; re-en. Sec. 9017, Rev. C. 1907. Cal. Pen. C. Sec. 787.

11714. Jurisdiction for treason committed out of the state. The jurisdiction of a criminal action for treason, when the overt act is committed out of the state, is in any county of the state.

History: En. Sec. 1571, Pen. C. 1895; re-en. Sec. 9018, Rev. C. 1907. Cal. Pen. C. Sec. 788.

11715. Jurisdiction for stealing, etc., property out of state, and brought therein. The jurisdiction of a criminal action for stealing in any other state the property of another, or receiving it, knowing it to have been stolen, and bringing the same into this state, is in any county into or through which such stolen property has been brought.

History: En. Sec. 1572, Pen. C. 1895; Cited or applied as section 1572, Penal re-en. Sec. 9019, Rev. C. 1907. Cal. Pen. C. Code, in *State v. De Wolfe*, 29 Mont. 415, Sec. 789. 421, 74 Pac. 1084.

11716. Jurisdiction for murder, etc., where the injury was inflicted in one county, and the party dies out of that county. The jurisdiction of a criminal action for murder or manslaughter, when the injury which caused the death was inflicted in one county, and the party injured dies in another county, or out of the state, is in the county where the injury was inflicted.

History: En. Sec. 31, p. 275, Cod. Stat. 1871; re-en. Sec. 31, 4th Div. Rev. Stat. 1879; re-en. Sec. 31, 4th Div. Comp. Stat. 1887; amd. Sec. 1573, Pen. C. 1895; re-en. Sec. 9020, Rev. C. 1907. Cal. Pen. C. Sec. 790.

Where a person is shot in one county but dies in another, and is charged with murder in the former county, it is unnecessary to allege where the deceased died;

and, though it is alleged that he died in the county where the fatal shot was fired, while the evidence shows that he died in another county, there is no variance. That term refers to a disagreement between the allegations in the information and the proof, with reference to some matter that is legally essential to the charge. *State v. Crean*, 43 Mont. 47, 54, 114 Pac. 603, Ann. Cas. 1912C, 424.

11717. On an indictment against an accessory. In the case of an accessory in the commission of a public offense, the jurisdiction is in the county where the offense of the accessory was committed, notwithstanding the principal offense was committed in another county.

History: En. Sec. 1574, Pen. C. 1895; re-en. Sec. 9021, Rev. C. 1907. Cal. Pen. C. Sec. 791.

11718. Of principals who are not present, etc., at commission of the principal offense. The jurisdiction of a criminal action against a principal in the commission of a public offense, when such principal is not present at the commission of the principal offense, is in the same county it would be under this code if he were present and aiding and abetting therein.

History: En. Sec. 1575, Pen. C. 1895; re-en. Sec. 9022, Rev. C. 1907. Cal. Pen. C. Sec. 792.

11719. Conviction or acquittal in another state a bar, where the jurisdiction is concurrent. When an act charged as a public offense is within the jurisdiction of another state or county as well as of this state, a conviction or acquittal thereof in the former is a bar to the prosecution or indictment therefor in this state.

History: En. Sec. 1576, Pen. C. 1895; re-en. Sec. 9023, Rev. C. 1907. Cal. Pen. C. Sec. 793.

11720. Conviction or acquittal in another county a bar, where the jurisdiction is concurrent. When an offense is within the jurisdiction of two or more counties, a conviction or acquittal thereof in one county is a bar to prosecution or indictment therefor in another.

History: En. Sec. 1577, Pen. C. 1895; re-en. Sec. 9024, Rev. C. 1907. Cal. Pen. C. Sec. 794.

11721. Jurisdiction of prizefight. The jurisdiction of a violation of sections 11293, 11294 and 11295 of this code, or a conspiracy to violate either of said sections, is in any county, first, in which any act is done toward the commission of the offense; or, second, into, out of, or through which the offender passed to commit the offense; or, third, where the offender is arrested.

History: En. Sec. 1578, Pen. C. 1895; re-en. Sec. 9025, Rev. C. 1907. Cal. Pen. C. Sec. 795.

CHAPTER 10.

TIME OF COMMENCING CRIMINAL ACTIONS.

Section 11722. Prosecution for Murder May Be Commenced at Any Time.

11723. Limitation of Five Years in All Other Felonies.

11724. Limitation of One Year in Misdemeanors.

11725. Exception When Defendant Is Out of the State.

11726. Indictment Found, When Presented and Filed.

11727. Time Not Counted.

11722. Prosecution for murder may be commenced at any time. There is no limitation of time within which a prosecution for murder or manslaughter must be commenced. It may be commenced at any time after the death of the person killed.

History: En. Sec. 20, p. 221, Bannack Stat.; re-en. Sec. 37, p. 195, Cod. Stat. 1871; re-en. Sec. 37, 3d Div. Rev. Stat. 1879; re-en. Sec. 37, 3d Div. Comp. Stat. 1887; amd. Sec. 1580, Pen. C. 1895; re-en.

Sec. 9026, Rev. C. 1907. Cal. Pen. C. Sec. 799.

Cited or applied as section 9026, Revised Codes, in *State v. Vanella*, 40 Mont. 326, 342, 106 Pac. 364, 20 Ann. Cas. 398.

11723. Limitation of five years in all other felonies. An indictment for any other felony than murder or manslaughter must be found, or an information filed, within five years after its commission.

History: En. Sec. 22, p. 221, Bannack Stat.; re-en. Sec. 39, p. 195, Cod. Stat. 1871; re-en. Sec. 39, 3d Div. Rev. Stat. 1879; re-en. Sec. 39, 3d Div. Comp. Stat. 1887; amd. Sec. 1581, Pen. C. 1895; re-en. Sec. 9027, Rev. C. 1907. Cal. Pen. C. Sec. 800.

Unless time is a material ingredient in the offense or in charging the same, it is only necessary to prove that it was com-

mitted prior to the findings or filing of the information or indictment. *State v. Rogers*, 31 Mont. 1, 4, 77 Pac. 293.

When prosecution deemed commenced within statute of limitations, see note in 1 Ann. Cas. 319.

Computation of limitation of time against prosecution, see note in 12 Ann. Cas. 60.

11724. Limitation of one year in misdemeanors. An indictment for any misdemeanor must be found, or an information filed or complaint made, within one year after its commission.

History: En. Sec. 1582, Pen. C. 1895; re-en. Sec. 9028, Rev. C. 1907. Cal. Pen. C. Sec. 801.

This is a general statute of limitations, applicable to misdemeanors, and an exception to it cannot be enlarged beyond what its plain language imports, and whenever the exception is invoked the case must clearly and unequivocally fall within it. *State v. Clemens*, 40 Mont. 567, 569, 107 Pac. 896. See *Smith v. Smith*, 224 Fed. 1, 5, 139 C. C. A. 465.

Where a person committed a misde-

meanor while within this state and afterwards departed therefrom, an information not filed until one year and ten months after the date of its commission was barred by this section. *State v. Clemens*, 40 Mont. 567, 569, 107 Pac. 896.

The mere fact that a defendant is absent from the state does not constitute any justification or excuse for delay in filing an information against him, particularly in view of the very liberal rules of this state applicable to extradition proceedings. *State v. Clemens*, 40 Mont. 567, 571, 107 Pac. 896.

11725. Exception when defendant is out of the state. If, after the offense is committed, the defendant leaves the state or resides outside the state, the indictment may be found or an information or complaint filed within the time herein limited, after his coming within the state, and no time during which the defendant is not an inhabitant of or actually a resident within this state is part of the limitation.

History: Ap. p. Sec. 23, p. 221, Bannack Stat.; re-en. Sec. 40, p. 195, Cod. Stat. 1871; re-en. Sec. 40, 3d Div. Rev. Stat. 1879; re-en. Sec. 40, 3d Div. Comp. Stat. 1887; en. Sec. 1583, Pen. C. 1895; re-en.

Sec. 9029, Rev. C. 1907; amd. Sec. 1, Ch. 5, L. 1917. Cal. Pen. C. Sec. 802.

For a construction of this section prior to its amendment, see *State v. Clemens*, 40 Mont. 567, 569, 107 Pac. 896.

11726. Indictment found, when presented and filed. An indictment is found within the meaning of this chapter when it is presented by the grand jury in open court, and there received and filed.

History: En. Sec. 1584, Pen. C. 1895; re-en. Sec. 9030, Rev. C. 1907. Cal. Pen. C. Sec. 803.

11727. Time not counted. When an indictment, complaint, or information is quashed or set aside, or judgment thereon is reversed, the time during which the same was pending must not be computed as part of the time of the limitation prescribed for the offense.

History: En. Sec. 304, p. 262, Bannack Stat.; re-en. Sec. 460, p. 259, Cod. Stat. 1871; re-en. Sec. 460, 3d Div. Rev. Stat. 1879; re-en. Sec. 462, 3d Div. Comp. Stat. 1887; amd. Sec. 1585, Pen. C. 1895; re-en. Sec. 9031, Rev. C. 1907.

Running of statute against crime as affected by indictment set aside or quashed, see note in 8 Ann. Cas. 194.

CHAPTER 11.

THE COMPLAINT.

Section 11728. Complaint, Must Contain What.

11729. Duty to Make Complaint.

11730. Duty of Magistrate.

11731. Arrest Without Warrant.

11732. Magistrate Must Issue Subpoenas.

11728. Complaint, must contain what. The complaint must state:

1. The name of the person accused, if known, or if not known, he may be designated by any other name;
2. The county in which the offense was committed;
3. The general name of the offense;
4. The person against whom, or against whose property, the offense was committed, if known; and,
5. If the offense be against the property of any person, a general description of such property.

The complaint must be subscribed and sworn to by the complainant.

History: Ap. p. Sec. 76, p. 202, Cod. Stat. 1871; re-en. Sec. 76, 3d Div. Rev. Stat. 1879; re-en. Sec. 76, 3d Div. Comp. Stat. 1887; amd. Sec. 1590, Pen. C. 1895; re-en. Sec. 9032, Rev. C. 1907.

Codes, in *State v. Russell*, 52 Mont. 583, 160 Pac. 655.

Complaint based on information and belief as basis for examination preliminary to issuance of warrant, see notes in 10 L. R. A. (N. S.) 159; 25 L. R. A. (N. S.) 60.

Cited or applied as section 9032, Revised

11729. Duty to make complaint. Every person who has reason to believe that a public offense has been committed and that a certain person

has committed such offense, must make complaint of such person before a magistrate of the township in which the offense was committed, or if there is no magistrate in such township, before the nearest magistrate.

Related sections: 11615, 11619, 12302.

History: En. Sec. 75, p. 202, Cod. Stat. 1871; re-en. Sec. 75, 3d Div. Rev. Stat. 1879; re-en. Sec. 75, 3d Div. Comp. Stat. 1887; amd. Sec. 1591, Pen. C. 1895; re-en. Sec. 9033, Rev. C. 1907.

Cited or applied as section 1591, Penal Code, in *State v. O'Brien*, 35 Mont. 482, 494, 90 Pac. 514, 10 Ann. Cas. 1006.

11730. Duty of magistrate. When a complaint is made before a magistrate charging a person with the commission of a public offense, such magistrate must examine the complainant, under oath, as to his knowledge of the commission of the offense charged, and he may also examine any other person. If from such examination, or from any other facts which may lawfully come to the knowledge of the magistrate, it appears to him probable that the alleged offense has been committed within his jurisdiction and that the person accused committed it, such magistrate must immediately issue his warrant for the arrest of such person.

History: Ap. p. Sec. 77, p. 202, Cod. Stat. 1871; re-en. Sec. 77, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 40, L. 1885; re-en. Sec. 77, 3d Div. Comp. Stat. 1887; en. Sec. 1592, Pen. C. 1895; re-en. Sec. 9034, Rev. C. 1907. Cal. Pen. C. Secs. 811 and 813.

11731. Arrest without warrant. When any officer or private person shall bring any person he has arrested, without a warrant, before a magistrate, it is the duty of such officer or person to specify the charge upon which he has made the arrest; it is then the duty of the magistrate or county attorney to make and file a complaint of the offense charged, and cause the officer or person, or some other person, to subscribe and make oath to such complaint; and the proceedings must be the same thereafter as are had in cases where arrests are made under warrant.

History: En. Sec. 1593, Pen. C. 1895; re-en. Sec. 9035, Rev. C. 1907. his presence, see note in 9 Ann. Cas. 623.

Time when peace officer may arrest without warrant for misdemeanor committed in

Necessity to prevent escape as condition of right to make arrest without warrant, see note in 2 L. R. A. (N. S.) 730.

11732. Magistrate must issue subpoenas. Any person making complaint of a public offense must inform the magistrate of all persons who have any knowledge of the commission of the offense, and the magistrate, at the time of issuing the warrant, must issue subpoenas for each person, requiring them to attend, at a specified time, as witnesses.

History: Ap. p. Sec. 79, p. 203, Cod. Stat. 1871; re-en. Sec. 79, 3rd Div. Rev. Stat. 1879; re-en. Sec. 79, 3d Div. Comp. Stat. 1887; amd. Sec. 1594, Pen. C. 1895; re-en. Sec. 9036, Rev. C. 1907.

CHAPTER 12.

THE WARRANT OF ARREST—PROCEEDINGS ON EXECUTION OF THE WARRANT.

Section 11733. Form of Warrant.

11734. Name or Description of the Defendant in the Warrant, and Statement of the Offense.

11735. Warrant to Be Directed to and Executed by Peace Officer.

11736. To What Peace Officers Warrants Are to Be Directed.

- 11737. Same; and When and How Executed in Another County.
- 11738. Officer May Arrest in Any County.
- 11739. Defendant to Be Taken Before the Magistrate Issuing the Warrant, etc.
- 11740. Defendant Arrested for Misdemeanor in Another County, to Be Admitted to Bail.
- 11741. Proceedings on Taking Bail From the Defendant in Such Cases.
- 11742. When Bail Is Not Given—When Magistrate Who Issued Warrant Cannot Act.
- 11743. When Magistrate Who Issued Warrant Must Act.
- 11744. No Delay in Taking Defendant Before Magistrate.
- 11745. Proceedings Where Defendant Is Taken Before Another Magistrate.
- 11746. Proceedings for Offenses Triable in Another County.
- 11747. Duty of Officer.
- 11748. Admission to Bail.
- 11749. Officer in Charge of Prisoner.
- 11750. Same.

11733. Form of warrant. A warrant of arrest is an order in writing, in the name of the state, signed by a magistrate, commanding the arrest of the defendant, and may be substantially in the following form:

County of

The State of Montana to any sheriff, constable, marshal, or policeman of said state, or of the county of

Complaint on oath having been this day made before me, by A B, that the crime of (designating it) has been committed, and accusing C D thereof, you are therefore commanded forthwith to arrest the above named C D, and bring him before me at (naming the place), or in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at....., this..... day of, nineteen.....

History: En. Sec. 1600, Pen. C. 1895;
re-en. Sec. 9037, Rev. C. 1907. Cal. Pen.
C. Sec. 814.

Affidavit on information and belief as basis for issuance of warrant of arrest, see notes in 1 Ann. Cas. 653; 18 Ann. Cas. 817.

11734. Name or description of the defendant in the warrant, and statement of the offense. This warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state the time of issuing it, and the county, city, or township where it was issued, and be signed by the magistrate, with his name of office.

History: En. Sec. 1601, Pen. C. 1895; re-en. Sec. 9038, Rev. C. 1907. Cal. Pen. C. Sec. 815.

11735. Warrant to be directed to and executed by peace officer. The warrant must be directed to and executed by a peace officer.

History: En. Sec. 1602, Pen. C. 1895; re-en. Sec. 9039, Rev. C. 1907. Cal. Pen. C. Sec. 816.

11736. To what peace officers warrants are to be directed. If a warrant is issued by a justice of the supreme court, or judge of a district court, it may be directed generally to any sheriff, constable, marshal, or policeman in the state, and may be executed by any of those officers to whom it may be delivered in any part of the state.

History: En. Sec. 1603, Pen. C. 1895;
re-en. Sec. 9040, Rev. C. 1907. Cal. Pen. C.
Sec. 818.

Cited or applied as section 9040, Revised Codes, in State ex rel. Quintin v. Edwards, 38 Mont. 250, 266, 99 Pac. 940.

11737. Same; and when and how executed in another county. If it is issued by any other magistrate it may be directed generally to any sheriff, constable, marshal, or policeman in the county in which it is issued, and may be executed by such officer in any part of the state.

History: En. Sec. 1604, Pen. C. 1895; re-en. Sec. 9041, Rev. C. 1907. Cal. Pen. C. Sec. 819. Cited or applied as section 9041, Revised Codes, in State ex rel. Quintin v. Edwards, 38 Mont. 250, 266, 99 Pac. 940.

11738. Officer may arrest in any county. Any officer pursuing a person for whom he has a warrant, into another county than the one in which he holds office, may, in the county where he finds such person, call for assistance, and command aid, and exercise authority as if in his own county.

History: En. Sec. 78, p. 202, Cod. Stat. 1887; re-en. Sec. 1605, Pen. C. 1895; re-en. 1871; re-en. Sec. 78, 3d Div. Rev. Stat. Sec. 9042, Rev. C. 1907. 1879; re-en. Sec. 78, 3d Div. Comp. Stat.

11739. Defendant to be taken before the magistrate issuing the warrant, etc. If the offense charged is a felony, the officer making the arrest must take the defendant before the magistrate who issued the warrant, or some other magistrate of the same county, as provided in the warrant of arrest.

History: En. Sec. 1606, Pen. C. 1895; re-en. Sec. 9043, Rev. C. 1907. Cal. Pen. C. Sec. 821.

11740. Defendant arrested for misdemeanor in another county, to be admitted to bail. If the offense charged is a misdemeanor, not within the jurisdiction of the magistrate to punish, and the defendant is arrested in another county, the officer must, upon being required by the defendant, take him before a magistrate in that county, who must admit the defendant to bail, and take bail from him accordingly.

History: En. Sec. 1607, Pen. C. 1895; re-en. Sec. 9044, Rev. C. 1907. Cal. Pen. C. Sec. 822.

11741. Proceedings on taking bail from the defendant in such cases. On taking the bail, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer having charge of the defendant. The officer must then discharge the defendant from arrest, and must, without delay, deliver the warrant and undertaking to the clerk of the court at which the defendant is required to appear.

History: En. Sec. 1608, Pen. C. 1895; re-en. Sec. 9045, Rev. C. 1907. Cal. Pen. C. Sec. 823.

11742. When bail is not given—When magistrate who issued warrant cannot act. If, on the admission of the defendant to bail, the bail is not forthwith given, the officer must take the defendant before the magistrate who issued the warrant, or, in case of his absence or inability to act, before the nearest or most accessible magistrate in the same county, and must at the same time deliver to the magistrate the warrant, with his return thereon indorsed and subscribed by him.

History: En. Sec. 1609, Pen. C. 1895; re-en. Sec. 9046, Rev. C. 1907. Cal. Pen. C. Sec. 824.

11743. When magistrate who issued warrant must act. If the offense charged is within the jurisdiction of the magistrate to try and punish upon conviction, the defendant, if arrested in another county, must be taken before the magistrate who issued the warrant, or, if he is absent, then to some other magistrate, as provided in the next preceding section.

History: En. Sec. 1610, Pen. C. 1895; re-en. Sec. 9047, Rev. C. 1907.

11744. No delay in taking defendant before magistrate. The defendant must in all cases be taken before the magistrate without unnecessary delay, and any attorney-at-law entitled to practice in courts of record of Montana may, at the request of the prisoner after such arrest, visit the person so arrested.

History: En. Sec. 1611, Pen. C. 1895; re-en. Sec. 9048, Rev. C. 1907. Cal. Pen. C. Sec. 825.

11745. Proceedings where defendant is taken before another magistrate. If the defendant is brought before a magistrate other than the one who issued the warrant, the complaint on which the warrant was issued must be sent to that magistrate.

History: En. Sec. 1612, Pen. C. 1895; re-en. Sec. 9049, Rev. C. 1907. Cal. Pen. C. Sec. 826.

11746. Proceedings for offenses triable in another county. When a complaint is made before a magistrate of the commission of a public offense triable in another county of the state, but showing that the defendant is in the county where the complaint is made, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the nearest or most accessible magistrate of the county in which the offense is triable, and the complaint must be delivered by the magistrate to the officer to whom the warrant is delivered.

History: En. Sec. 1613, Pen. C. 1895; re-en. Sec. 9050, Rev. C. 1907. Cal. Pen. C. Sec. 827.

11747. Duty of officer. The officer who executes the warrant must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable, and must deliver to him the complaint and the warrant, with his return indorsed thereon, and the magistrate must then proceed in the same manner as upon a warrant issued by himself.

History: En. Sec. 1614, Pen. C. 1895; re-en. Sec. 9051, Rev. C. 1907. Cal. Pen. C. Sec. 828.

11748. Admission to bail. If the offense charged in the warrant issued pursuant to section 11746 is a misdemeanor not within the jurisdiction of the magistrate to try and punish, the officer must, upon being required by the defendant, take him before a magistrate of the county in which the warrant was issued, who must admit the defendant to bail, and immediately transmit the warrant and complaint and undertaking to the clerk of the court in which the defendant is required to appear.

History: En. Sec. 1615, Pen. C. 1895; re-en. Sec. 9052, Rev. C. 1907. Cal. Pen. C. Sec. 829.

11749. Officer in charge of prisoner. An officer who has arrested a defendant on a criminal charge, in any county, may carry such prisoner

through such parts of any county or counties as shall be in the ordinary route of travel from the place where the prisoner shall have been arrested, to the place where he is to be conveyed and delivered under the process by which the arrest shall have been made; and such conveyance shall not be deemed an escape.

History: En. Sec. 1616, Pen. C. 1895; re-en. Sec. 9053, Rev. C. 1907.

11750. Same. While passing through such other county or counties the officers having the prisoner in their charge shall not be liable to arrest on civil process; and they have the like power to require any citizen to aid in securing such prisoner, and to retake him if he escapes, as if they were within their own county; and a refusal or neglect to render such aid shall be an offense, in the same manner as if they were officers of the county where such aid shall be required.

History: En. Sec. 1617, Pen. C. 1895; re-en. Sec. 9054, Rev. C. 1907.

CHAPTER 13.

ARREST—BY WHOM AND HOW MADE—RETAKE AFTER ESCAPE.

- Section 11751. Arrest Defined—By Whom Made.
 11752. How an Arrest Is Made and What Restraint Allowed.
 11753. Arrests by Peace Officers.
 11754. Arrests by Private Persons.
 11755. Magistrates May Order Arrest.
 11756. Person Making Arrest May Summon Assistance.
 11757. When the Arrest May Be Made.
 11758. Arrest, How Made.
 11759. Warrant Must Be Shown, When.
 11760. What Force May Be Used.
 11761. Doors and Windows May Be Broken, When.
 11762. Same.
 11763. Weapons May Be Taken From Persons Arrested.
 11764. Duty of Private Person Who Has Made an Arrest.
 11765. Duty of Officer Arresting With Warrant.
 11766. Person Arrested Without a Warrant to Be Taken Before a Magistrate
 —Information to Be Filed.
 11767. Arrest by Telegraph.
 11768. Same.
 11769. Examination of Defendant Where No Other Provision Is Made.
 11770. Trial and Judgment of Misdemeanor.
 11771. May Be at Any Time or in Any Place in the State.
 11772. May Break Open Door or Window if Admittance Refused.

11751. Arrest defined—By whom made. An arrest is taking a person into custody in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.

History: En. Secs. 63, 64, p. 201, Cod. Stat. 1871; re-en. Secs. 63, 64, 3d Div. Rev. Stat. 1879; re-en. Secs. 63, 64, 3d Div. Comp. Stat. 1887; am. Sec. 1630 Pen. C. 1895; re-en. Sec. 9055, Rev. C. 1907. Cal. Pen. C. Sec. 834.

For text treatment of "Arrest," see 3 Cal. Jur. 112 and 2 R. C. L. 443.

11752. How an arrest is made and what restraint allowed. An arrest is made by an actual restraint of the person of the defendant or by his submission to the custody of an officer. The defendant must not be subjected to any more restraint than is necessary for his arrest and detention.

Related section: 11613.

History: Ap. p. Sec. 111, p. 234, Bank Stat.; en. Sec. 71, p. 202, Cod. Stat. 1871; re-en. Sec. 71, 3d Div. Rev. Stat. 1879; re-en. Sec. 71, 3d Div. Comp. Stat. 1887; amd. Sec. 1631, Pen. C. 1895; re-en. Sec. 9056, Rev. C. 1907. Cal. Pen. C. Sec. 835.

11753. Arrests by peace officers. A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person—

1. For a public offense committed or attempted in his presence;
2. When a person arrested has committed a felony, although not in his presence;
3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it;
4. On a charge made, upon a reasonable cause, of the commission of a felony by the party arrested;
5. At night, when there is reasonable cause to believe that he has committed a felony.

History: Ap. p. Sec. 66, p. 201, Cod. Stat. 1871; re-en. Sec. 66, 3d Div. Rev. Stat. 1879; re-en. Sec. 66, 3d Div. Comp. Stat. 1887; am. Sec. 1632, Pen. C. 1895; re-en. Sec. 9057, Rev. C. 1907. Cal. Pen. C. Sec. 836.

The person named in a warrant of arrest must submit even though not guilty of any offense, and the officer, after making his purpose known and exhibiting the warrant, if requested to do so, may use such force as is necessary to effect the arrest without subjecting himself to a charge of trespass. State v. Bradshaw, 53 Mont. 96, 98, 161 Pac. 710.

Where any of the circumstances defined by this section do not exist, an arrest by

an officer without warrant constitutes a trespass upon the personal liberty of the one arrested, against which he may use such force as is necessary to prevent the arrest, or to effect his escape, and in a prosecution for resisting an officer it is not sufficient if the officer believed there was a violation of the law, but it must appear that the conditions described in the statute existed. State v. Bradshaw, 53 Mont. 96, 98, 161 Pac. 710.

Cited or applied as section 9057, Revised Codes, in Rand v. Butte Electric Ry. Co., 40 Mont. 398, 417, 107 Pac. 87.

Entry and search of premises for purpose of arresting one without search warrant, see note in 5 A. L. R. 263.

11754. Arrests by private persons. A private person may arrest another—

1. For a public offense committed or attempted in his presence;
2. When the person arrested has committed a felony, although not in his presence;
3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

History: En. Sec. 67, p. 201, Cod. Stat. 1871; re-en. Sec. 67, 3d Div. Rev. Stat. 1879; re-en. Sec. 67, 3d Div. Comp. Stat. 1887; amd. Sec. 1633, Pen. C. 1895; re-en. Sec. 9058, Rev. C. 1907. Cal. Pen. C. Sec. 837.

In an action to recover damages for false imprisonment, it is proper to refuse the defendant an instruction to the effect that the law gives a private person the right to make an arrest when the person arrested has committed, or is about to commit, a public offense in his presence, and that, if the jury believes that the plaintiff had

taken from the defendant property of the latter which he was attempting to recover at the time of the alleged imprisonment, the verdict should be for the defendant. Kroeger v. Passmore, 36 Mont. 504, 510, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

In connection with this section there must also be read section 11764, which is a part of the same chapter of the code, relates to the same subject-matter, and may rightly be said to be a limitation upon the provisions of this section. Kroeger v. Passmore, 36 Mont. 504, 511, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

11755. Magistrate may order arrest. A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such magistrate.

History: Ap. p. Sec. 70, p. 202, Cod. Stat. 1871; re-en. Sec. 70, 3rd Div. Rev. Stat. 1879; re-en. Sec. 70, 3rd Div. Comp. Stat. 1887; amd. Sec. 1634, Pen. C. 1895; re-en. Sec. 9059, Rev. C. 1907. Cal. Pen. C. Sec. 838.

11756. Person making arrest may summon assistance. Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.

History: En. Sec. 1635, Pen. C. 1895; re-en. Sec. 9060, Rev. C. 1907. Cal. Pen. C. Sec. 839.

Right and duty of bystander summoned directly or by hue and cry to assist officer making arrest without warrant, see note in 18 Ann. Cas. 932.

11757. When the arrest may be made. If the offense charged is a felony, the arrest may be made on any day, and at any time of the day or night. If it is a misdemeanor, the arrest cannot be made at night, unless upon the direction of the magistrate, endorsed upon the warrant.

History: En. Sec. 1636, Pen. C. 1895; re-en. Sec. 9061, Rev. C. 1907. Cal. Pen. C. Sec. 840.

11758. Arrest, how made. The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or is pursued immediately after its commission, or after an escape.

History: Ap. p. Sec. 68, p. 201, Cod. Stat. 1871; re-en. Sec. 68, 3d Div. Rev. Stat. 1879; re-en. Sec. 68, 3d Div. Comp. Stat. 1887; en. Sec. 1637, Pen. C. 1895; re-en. Sec. 9062, Rev. C. 1907. Cal. Pen. C. Sec. 841.

Cited or applied as section 9062, Revised Codes, in *State v. Bradshaw*, 53 Mont. 96, 98, 161 Pac. 710.

11759. Warrant must be shown, when. If the person making the arrest is acting under the authority of a warrant, he must show the warrant, if required.

History: En. Sec. 1638, Pen. C. 1895; re-en. Sec. 9063, Rev. C. 1907. Cal. Pen. C. Sec. 842.

11760. What force may be used. When the arrest is being made by an officer under the authority of a warrant, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all necessary means to effect the arrest.

History: Ap. p. Sec. 72, p. 202, Cod. Stat. 1871; re-en. Sec. 72, 3d Div. Rev. Stat. 1879; re-en. Sec. 72, 3d Div. Comp. Stat. 1887; en. Sec. 1639, Pen. C. 1895; re-en. Sec. 9064, Rev. C. 1907. Cal. Pen. C. Sec. 843.

sary means to effect the arrest if the person to be arrested either flees or forcibly resists, if he unnecessarily assaults him he is criminally liable for such assault. *State v. Prlja*, 57 Mont. 461, 189 Pac. 64.

While, under this section, in making a lawful arrest, the officer may use all neces-

Cited or applied as section 9064, Revised Codes, in *State v. Bradshaw*, 53 Mont. 96, 98, 161 Pac. 710.

11761. Doors and windows may be broken, when. To make an arrest, a private person, if the offense be a felony, and in all cases a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which they have reasonable grounds for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired.

History: Ap. p. 294, p. 261, Bannack Stat.; re-en. Sec. 450, p. 258, Cod. Stat. 1871; re-en. Sec. 450, 3d Div. Rev. Stat. 1879; re-en. Sec. 452, 3d Div. Comp. Stat. 1887; en. Sec. 1640, Pen. C. 1895; re-en. Sec. 9065, Rev. C. 1907. Cal. Pen. C. Sec. 844.

Right of officer without warrant to break doors and arrest on suspicion of felony, see note in Ann. Cas. 1912B, 574.

Right of peace officer to enter dwelling to make arrests, see note in 16 L. R. A. 500.

11762. Same. Any person who has lawfully entered a house for the purpose of making an arrest may break open the door or window thereof, if detained therein, when necessary for the purpose of liberating himself, and an officer may do the same, when necessary for the purpose of liberating a person who, acting in his aid, lawfully entered for the purpose of making an arrest, and is detained therein.

History: En. Sec. 1641, Pen. C. 1895; re-en. Sec. 9066, Rev. C. 1907. Cal. Pen. C. Sec. 845.

11763. Weapons may be taken from persons arrested. Any person making an arrest may take from the person arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate before whom he is taken.

History: En. Sec. 1642, Pen. C. 1895; re-en. Sec. 9067, Rev. C. 1907. Cal. Pen. C. Sec. 846.

11764. Duty of private person who has made an arrest. A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him to a peace officer.

History: En. Sec. 69, p. 202, Cod. Stat. 1871; re-en. Sec. 69, 3d Div. Rev. Stat. 1879; re-en. Sec. 69, 3d Div. Comp. Stat. 1887; amd. Sec. 1643, Pen. C. 1895; re-en. Sec. 9068, Rev. C. 1907. Cal. Pen. C. Sec. 847.

This section may rightly be said to be a limitation upon the provisions of section 11754. *Kroeger v. Passmore*, 36 Mont. 504, 511, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

In an action to recover damages for false imprisonment, it is proper to refuse

the defendant an instruction to the effect that the law gives a private person the right to make an arrest when the person arrested has committed, or is about to commit, a public offense in his presence, and that, if the jury believes that the plaintiff had taken from the defendant property of the latter which he was attempting to recover at the time of the alleged imprisonment, the verdict should be for the defendant. *Kroeger v. Passmore*, 36 Mont. 504, 511, 93 Pac. 805, 14 L. R. A. (N. S.) 988.

11765. Duty of officer arresting with warrant. An officer making an arrest, in obedience to a warrant, must proceed with the person arrested as commanded by the warrant, or as provided by law.

History: En. Sec. 1644, Pen. C. 1895; re-en. Sec. 9069, Rev. C. 1907. Cal. Pen. C. Sec. 848.

11766. Person arrested without a warrant to be taken before a magistrate—Information to be filed. When an arrest is made without a warrant by a peace officer or private person, the person arrested must, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the arrest is made, and a complaint, stating the charge against the person, must be made before such magistrate.

History: En. Sec. 1645, Pen. C. 1895; re-en. Sec. 9070, Rev. C. 1907. Cal. Pen. C. Sec. 849.

11767. Arrest by telegraph. A justice of the supreme court, or a judge of the district court, may, by an endorsement under his hand upon a warrant of arrest, authorize the service thereof by telegraph, and thereafter a telegraphic copy of such warrant may be sent by telegraph to one or more peace officers; and such copy is as effectual in the hands of any officer, and he must proceed in the same manner under it, as though he

held an original warrant issued by the magistrate making the indorsement thereon.

History: En. Sec. 1646, Pen. C. 1895; re-en. Sec. 9071, Rev. C. 1907. Cal. Pen. C. Sec. 850.

11768. Same. Every officer causing telegraphic copies of warrants to be sent must certify as correct, and file in the telegraph office from which such copies are sent, a copy of the warrant and indorsement thereon, and must return the original with a statement of his action thereunder.

History: En. Sec. 1647, Pen. C. 1895; re-en. Sec. 9072, Rev. C. 1907. Cal. Pen. C. Sec. 851.

11769. Examination of defendant where no other provision is made. Every person arrested by warrant for any offense, where no other provision is made for his examination, must be brought before some magistrate of the county in which the warrant was issued, and the warrant, with the proper return thereon, signed by the person who made the arrest, must be delivered to such magistrate.

History: En. Sec. 1648, Pen. C. 1895; re-en. Sec. 9073, Rev. C. 1907.

11770. Trial and judgment of misdemeanor. If the offense charged is a misdemeanor within the jurisdiction of the magistrate to try and render judgment therein, a trial must be had as provided by sections 12302 to 12347 of this code.

History: En. Sec. 1649, Pen. C. 1895; re-en. Sec. 9074, Rev. C. 1907.

11771. May be at any time or in any place in the state. If a person arrested escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place within the state.

History: En. Sec. 74, p. 202, Cod. Stat. 1887; re-en. Sec. 1660, Pen. C. 1895; re-en. 1871; re-en. Sec. 74, 3d Div. Rev. Stat. Sec. 9075, Rev. C. 1907. Cal. Pen. C. 1879; re-en. Sec. 74, 3d Div. Comp. Stat. Sec. 854.

11772. May break open door or window if admittance refused. To retake the person escaping or rescued, the person pursuing may break open any outer or inner door or window of a dwelling-house, if, after notice of his intention, he is refused admittance.

History: En. Sec. 1661, Pen. C. 1895; re-en. Sec. 9076, Rev. C. 1907. Cal. Pen. C. Sec. 855.

CHAPTER 14.

EXAMINATION AND COMMITMENT OR DISCHARGE OF THE DEFENDANT.

Section 11773. Magistrate to Inform the Defendant of the Charge, and His Right to Counsel

11774. Time to Send and Sending for Counsel.

11775. Examination, When to Proceed.

11776. On Postponement, Defendant to Be Committed or Discharged on Bail.

11777. Form of Commitment.

11778. Magistrate Must Issue Subpoenas.

11779. Examination of Witnesses to Be in Presence of Defendant.

11780. Examination of Defendant's Witnesses.

11781. Exclusion and Separation of Witnesses.

- 11782. Who May Be Present at the Examination.
- 11783. Reduction to Writing and Authentication of Testimony.
- 11784. Testimony, by Whom and How Kept.
- 11785. Defendant, When and How Discharged.
- 11786. When and How to Be Committed.
- 11787. Order for Commitment.
- 11788. Order for Bail on Commitment.
- 11789. Commitment, How Made and to Whom Delivered.
- 11790. Form of Commitment.
- 11791. Undertaking of Witness to Appear.
- 11792. Security for the Appearance of Witnesses.
- 11793. Infants and Married Women May Be Required to Give Security.
- 11794. Witnesses to Be Committed on Refusal to Give Security for Their Appearance—How Discharged.
- 11795. Witness Unable to Give Security May Be Conditionally Examined—Not Applicable to Prosecutor or Accomplice.
- 11796. Magistrate to Return Testimony, etc., to the Court.
- 11797. Waiver of Examination.

11773. Magistrate to inform the defendant of the charge, and his right to counsel. When the defendant is brought before the magistrate upon an arrest, either with or without warrant, on a charge of having committed a public offense, the magistrate must immediately inform him of the charge against him, which charge must be by complaint as provided in this code, made before the examination in this chapter provided for, and of his right to the aid of counsel in every stage of the proceedings.

History: Ap. p. Sec. 90, p. 204, Cod. re-en. Sec. 9077, Rev. C. 1907. Cal. Pen. Stat. 1871; re-en. Sec. 90, 3d Div. Rev. C. Sec. 858.
 Stat. 1879; re-en. Sec. 90, 3d Div. Comp.
 Stat. 1887; en. Sec. 1670, Pen. C. 1895; Right of accused to preliminary examination, see note in Ann. Cas. 1916E, 312.

11774. Time to send and sending for counsel. The magistrate must allow the defendant a reasonable time to send for counsel, and postpone the examination for that purpose; and must, upon request of the defendant, require a peace officer to take a message to any counsel, in the township or city, the defendant may name. The officer must, without delay and without fee, perform that duty.

History: En. Sec. 1671, Pen. C. 1895; re-en. Sec. 9078, Rev. C. 1907. Cal. Pen. C. Sec. 859.

11775. Examination, when to proceed. If the defendant requires the aid of counsel, the magistrate must, immediately after the appearance of counsel, or if, after waiting a reasonable time therefor, none appears, proceed to examine the case.

History: En. Sec. 1672, Pen. C. 1895; re-en. Sec. 9079, Rev. C. 1907. Cal. Pen. C. Sec. 860.

11776. On postponement, defendant to be committed or discharged on bail. A magistrate may adjourn an examination or trial pending before him from time to time, as occasion may require, not exceeding ten days at one time, without the consent of the person charged, and to the same or a different place in the county, as he may think proper; and in such case if the party is charged with a capital offense, he must be committed in the meantime, otherwise the magistrate must commit the defendant for examination, admit him to bail, or discharge him from custody upon the

deposit of money, as provided in this code, as security for his appearance at the time to which the examination is postponed.

History: Ap. p. Sec. 33, p. 223, Bank Stat. 1887; amd. Sec. 1673, Pen. C. 1895; re-en. Sec. 86, p. 204, Cod. re-en. Sec. 9080, Rev. C. 1907. Cal. Pen. Stat. 1871; re-en. Sec. 86, 3d Div. Rev. C. Sec. 861. Stat. 1879; re-en. Sec. 86, 3d Div. Comp.

11777. Form of commitment. The commitment for examination is made by an indorsement, signed by the magistrate on the warrant of arrest, to the following effect: "The within-named A B, having been brought before me under this warrant, is committed for examination to the sheriff of". If the sheriff is not present, the defendant may be committed to the custody of a peace officer.

History: En. Sec. 1674, Pen. C. 1895; re-en. Sec. 9081, Rev. C. 1907. Cal. Pen. C. Sec. 863.

11778. Magistrate must issue subpoenas. The magistrate must issue subpoenas for witnesses within the state required either for the prosecution or for the defense.

History: En. Sec. 1675, Pen. C. 1895; re-en. Sec. 9082, Rev. C. 1907. Cal. Pen. C. Sec. 864.

11779. Examination of witnesses to be in presence of defendant. The witnesses must be examined in the presence of the defendant, and may be cross-examined in his behalf.

History: En. Sec. 1676, Pen. C. 1895; re-en. Sec. 9083, Rev. C. 1907. Cal. Pen. C. Sec. 865.

11780. Examination of defendant's witnesses. When the examination of witnesses on the part of the state is closed, any witnesses the defendant may produce must be sworn and examined.

History: En. Sec. 1677, Pen. C. 1895; re-en. Sec. 9084, Rev. C. 1907. Cal. Pen. C. Sec. 866.

11781. Exclusion and separation of witnesses. While a witness is under examination, the magistrate may exclude all witnesses who have not been examined. He may also cause the witnesses to be kept separate, and to be prevented from conversing with each other until they are all examined.

History: En. Sec. 1678, Pen. C. 1895; re-en. Sec. 9085, Rev. C. 1907. Cal. Pen. C. Sec. 867.

11782. Who may be present at the examination. The magistrate must also, upon the request of the defendant, exclude from the examination every person except his clerk, the prosecutor and his counsel, the attorney-general, the county attorney of the county, the defendant and his counsel, and the officer having the defendant in custody.

History: En. Sec. 1679, Pen. C. 1895; re-en. Sec. 9086, Rev. C. 1907. Cal. Pen. C. Sec. 868.

11783. Reduction to writing and authentication of testimony. The testimony of each witness, in case of homicide, must be reduced to writing, as a deposition, by a stenographer appointed by the county attorney, under the direction of the magistrate; and in other cases the testimony of

each witness shall be taken by a stenographer appointed by the county attorney upon demand of the prosecuting attorney, or the defendant, or his counsel. The deposition or testimony of the witness must be authenticated in the following form:

1. It must state name of the witness, his place of residence, and his business or profession.

2. It must contain the question put to the witness, and his answers thereto, each answer being distinctly read to him as it is taken down, and being corrected or added to until it conforms to what he declares is the truth.

3. If the question put be objected to on either side and overruled, or the witness decline answering it, that fact, with the ground on which the question was overruled or the answer declined, must be stated.

4. The deposition must be signed by the witness, or, if he refuses to sign it, his reason for refusing must be stated in writing as he gives it.

5. It must be signed and certified by the magistrate when reduced to writing by him, or under his direction, and certified as being a correct statement of such testimony and proceedings in the case, and shall be *prima facie* a correct statement of such testimony and proceedings.

The deposition or testimony of the witness must be authenticated in the manner and form provided in this section.

History: En. Sec. 1680, Pen. C. 1895; re-en. Sec. 9087, Rev. C. 1907; amd. Sec. 1, Ch. 8, L. 1919. Cal. Pen. C. Sec. 869.

11784. Testimony, by whom and how kept. The magistrate or his clerk must keep the testimony taken on the examination until it is returned to the proper court; and must not permit such testimony to be examined or copied by any person except a judge of a court having jurisdiction of the offense or authorized to issue writs of habeas corpus, the attorney-general, county attorney, or other prosecuting attorney, and the defendant and his counsel.

History: En. Sec. 1681, Pen. C. 1895; re-en. Sec. 9088, Rev. C. 1907. Cal. Pen. C. Sec. 870.

11785. Defendant, when and how discharged. If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate must order the defendant discharged, by an indorsement on the testimony or warrant signed by him, to the following effect: "There being no sufficient cause to believe the within-named A B guilty of the offense within mentioned, I order him to be discharged."

History: Ap. p. Sec. 40, p. 224, Bank Stat.; amd. Sec. 116, p. 208, Cod. Stat. 1871; re-en. Sec. 116, 3d Div. Rev. Stat. 1879; re-en. Sec. 116, 3d Div. Comp. Stat. 1887; amd. Sec. 1682, Pen. C. 1895; re-en. Sec. 9089, Rev. C. 1907. Cal. Pen. C. Sec. 871.

11786. When and how to be committed. If, however, it appears from the examination that a public offense has been committed, and there is sufficient cause to believe the defendant guilty thereof, the magistrate must make or indorse on the testimony or warrant an order, signed by him, to the following effect: "It appearing to me that the offense in the within testimony mentioned (or any offense, according to the fact, stating

generally the nature thereof) has been committed, and that there is sufficient cause to believe the within-named A B guilty thereof, I order that he be held to answer to the same.”

History: Ap. p. Secs. 114, 115, p. 207, Cod. Stat. 1871; re-en. Secs. 114, 115, 3d Div. Rev. Stat. 1879; re-en. Secs. 114, 115, 3d Div. Comp. Stat. 1887; amd. Sec. 1683, Pen. C. 1895; re-en. Sec. 9090, Rev. C. 1907. Cal. Pen. C. Sec. 872.

On a preliminary examination, all that is required of the county attorney is to submit proof sufficient to show probable cause to believe the defendant to be guilty of the charge. In re Jones, 46 Mont. 122, 126, 126 Pac. 929.

11787. Order for commitment. If the offense is not bailable, the following words must be added to the indorsement: “And he is hereby committed to the sheriff of the county of”

History: En. Sec. 1684, Pen. C. 1895; re-en. Sec. 9091, Rev. C. 1907. Cal. Pen. C. Sec. 873.

11788. Order for bail on commitment. If the offense is bailable, and the defendant is admitted to bail the following words must be added to the order: “And that he be admitted to bail in the sum of dollars, and is committed to the sheriff of the county of until he gives such bail.”

History: En. Sec. 1685, Pen. C. 1895; re-en. Sec. 9092, Rev. C. 1907. Cal. Pen. C. Sec. 875.

11789. Commitment, how made and to whom delivered. If the magistrate order the defendant to be committed, he must make out a commitment, signed by him, with his name of office, and deliver it, with the defendant, to the officer to whom he is committed, or, if that officer is not present, to a peace officer, who must deliver the defendant into the proper custody, together with the commitment.

History: En. Sec. 1686, Pen. C. 1895; re-en. Sec. 9093, Rev. C. 1907. Cal. Pen. C. Sec. 876.

11790. Form of commitment. The commitment must be to the following effect:

County of (as the case may be).

The State of Montana to the sheriff of the county of

An order having been this day made by me that A B be held to answer upon a charge of (stating briefly the nature of the offense, and giving, as near as may be, the time when and the place where the same was committed), you are hereby commanded to receive him into your custody and detain him until he is legally discharged.

Dated this day of, nineteen

History: En. Sec. 1687, Pen. C. 1895; re-en. Sec. 9094, Rev. C. 1907. Cal. Pen. C. Sec. 877.

11791. Undertaking of witness to appear. On holding the defendant to answer, the magistrate may take from each of the material witnesses examined before him on the part of the state, a written undertaking, to the effect that he will appear and testify at the court to which the complaint and statements are to be sent, or that he will forfeit the sum of five hundred dollars.

History: Ap. p. Sec. 43, p. 225, Bannack 1871; re-en. Sec. 99, 3d Div. Rev. Stat. Stat.; re-en. Sec. 99, p. 205, Cod. Stat. 1879; re-en. Sec. 99, 3d Div. Comp. Stat.

1887; amd. Sec. 1688, Pen. C. 1895; re-en. Sec. 9095, Rev. C. 1907. Cal. Pen. C. Sec. 878.

Cited or applied as section 99, Third Division Compiled Statutes 1887, in *State v. McHatton*, 10 Mont. 370, 25 Pac. 1046.

11792. Security for the appearance of witnesses. When the magistrate or judge of the court in which the action is pending is satisfied, by proof on oath, that there is reason to believe that any such witness will not appear and testify unless security is required, he may order the witness to enter into a written undertaking, with sureties, in such sum as he may deem proper, for his appearance as specified in the preceding section.

History: Ap. p. Sec. 44, p. 225, Bannack Stat.; re-en. Sec. 100, p. 205, Cod. Stat. 1871; re-en. Sec. 100, 3d Div. Rev. Stat. 1879; re-en. Sec. 100, 3d Div. Comp.

Stat. 1887; amd. Sec. 1689, Pen. C. 1895; re-en. Sec. 9096, Rev. C. 1907. Cal. Pen. C. Sec. 879.

11793. Infants and married women may be required to give security. When any married woman or minor is a material witness, any other person may be allowed to give an undertaking for the appearance of such witness; or the magistrate may, in his discretion, take the undertaking of such married woman or minor in a sum not exceeding fifty dollars, which is valid and binding in law, notwithstanding the disability of coverture or minority.

History: En. Sec. 45, p. 225, Bannack Stat.; re-en. Sec. 101, p. 206, Cod. Stat. 1871; re-en. Sec. 101, 3d Div. Rev. Stat. 1879; re-en. Sec. 101, 3d Div. Comp. Stat.

1887; amd. Sec. 1690, Rev. C. 1907; re-en. Sec. 9097, Rev. C. 1907. Cal. Pen. C. Sec. 880.

11794. Witnesses to be committed on refusal to give security for their appearance—How discharged. Any witness required to enter into an undertaking, either with or without sureties must, if he refuse, be committed to prison by the magistrate, there to remain until the deposition of such witness can be taken. After the deposition is taken the witness must be immediately discharged.

History: En. Sec. 46, p. 225, Bannack Stat.; re-en. Sec. 102, p. 206, Cod. Stat. 1871; re-en. Sec. 102, 3d Div. Rev. Stat.

1879; re-en. Sec. 102, 3d Div. Comp. Stat. 1887; amd. 1691, Pen. C. 1895; re-en. Sec. 9098, Rev. C. 1907. Cal. Pen. C. Sec. 881.

11795. Witness unable to give security may be conditionally examined—Not applicable to prosecutor or accomplice. Such deposition must be taken in the presence of the accused and his counsel, or without their presence if they fail to attend the examination after reasonable notice of the time and place thereof, upon written notice to the defendant or his attorney, or the attorney prosecuting, as the case may be, and the deposition so taken must be transmitted to the clerk of the district court and may be used on the trial in the district court subject to objections as to the materiality or competency of the evidence as in case of other depositions, if the witness be dead or absent from the state at the time of the trial.

History: En. Sec. 1692, Pen. C. 1895; re-en. Sec. 9099, Rev. C. 1907. Cal. Pen. C. Sec. 882.

11796. Magistrate to return testimony, etc., to the court. When a magistrate has discharged a defendant, or has held him to answer, he must return, without delay, to the clerk of the court at which the defendant is

required to appear, the complaint, testimony, and warrant, if any, and all undertakings of bail, or for the appearance of witnesses, taken by him.

History: Ap. p. Sec. 110, p. 207, Cod. Stat. 1871; re-en. Sec. 110, 3d Div. Rev. Stat. 1879; re-en. Sec. 110, 3d Div. Comp. Stat. 1887; en. Sec. 1693, Pen. C. 1895; re-en. Sec. 9100, Rev. C. 1907. Cal. Pen. C. Sec. 883.

Cited or applied as section 1693, Penal Code, in *State v. Lagoni*, 30 Mont. 472, 479, 76 Pac. 1044.

11797. Waiver of examination. A defendant brought before a committing magistrate may waive a preliminary examination. In such cases the magistrate must make a minute of such waiver, and make the same order as though he had found that there was probable cause for believing the defendant guilty of the offense charged.

History: En. Sec. 111, p. 207, Cod. Stat. 1871; re-en. Sec. 111, 3d Div. Rev. Stat. 1879; re-en. Sec. 111, 3d Div. Comp. Stat. 1887; amd. Sec. 1694, Pen. C. 1895; re-en. Sec. 9101, Rev. C. 1907.

Waiver of preliminary examination by accused person, see note in *Ann. Cas.* 1917E, 179.

CHAPTER 15.

PRELIMINARY PROVISIONS—FILING THE INFORMATION.

Section 11798. Offenses, How Prosecuted.

11799. What by Accusation or Information.

11800. Indictments and Accusations, in What Court Found.

11801. Information to Be Filed.

11802. Duty of County Attorney.

11803. Duty of Court When County Attorney Does Not File Information.

11804. Information May Be Amended.

11805. Indorsement on Information.

11798. Offenses, how prosecuted. All public offenses triable in the district courts must be prosecuted by indictment or information, except as provided in the next section.

History: En. Sec. 1720, Pen. C. 1895; re-en. Sec. 9102, Rev. C. 1907. Cal. Pen. C. Sec. 888.

For text treatment of "Indictment and Information," see *Cal. Jur.* and 14 *R. C. L.* 150.

11799. What by accusation or information. When the proceedings are had for the removal of district, county, municipal, or township officers, they may be commenced by an accusation or information, in writing, as provided in sections 11688 and 11702 of this code.

History: En. Sec. 1721, Pen. C. 1895; re-en. Sec. 9103, Rev. C. 1907. Cal. Pen. C. Sec. 889.

11800. Indictments and accusations, in what court found. All accusations, informations, or indictments against district, county, municipal, and township officers, must be found or filed in the district court.

History: En. Sec. 1722, Pen. C. 1895; re-en. Sec. 9104, Rev. C. 1907. Cal. Pen. C. Sec. 890.

11801. Information to be filed. When the defendant has been examined and committed, or admitted to bail as provided in this code, or upon leave of court, the county attorney must, within thirty days after the delivery of the complaint, warrant, and testimony to the proper district court, or after such leave, file in such court an information charging the defend-

ant with the offense for which he is held to answer, or any other offense disclosed by the testimony. In case the county attorney fails to file the information within the time specified he is guilty of contempt, and may be prosecuted for neglect of duty as in other cases.

Related Section: 11626.

History: En. Sec. 2, p. 249, L. 1891; amd. Sec. 1730, Pen. C. 1895; re-en. Sec. 9105, Rev. C. 1907. Cal. Pen. C. Sec. 809.

Under this section and the two following sections, no leave of court is necessary to file an information after commitment on preliminary examination, and a writ of supervisory control will not issue to compel the granting of leave. *State ex rel. Donovan v. District Court*, 26 Mont. 275, 278, 67 Pac. 943.

Under this section and the two following sections, leave to file an information without a preliminary examination may be granted or refused, within the sound discretion of the court, when no statement is made to the court of the evidence upon which the state relies for a conviction, and a writ of supervisory control to revise such discretion will be denied. *State ex rel. Donovan v. District Court*, 26 Mont. 275, 279, 67 Pac. 943.

Where the county attorney fails to comply with this section, any advantage thereof must be taken by defendant by

motion to set aside the information, which must be done before demurrer or plea, and failure to so take advantage of the irregularity waives it. The negligence of the county attorney in this respect cannot be taken advantage of by the sureties on defendant's bail-bond. *State v. Lagoni*, 30 Mont. 472, 480, 76 Pac. 1044.

The objection that an information was filed, without leave of court, more than thirty days after the committing magistrate had lodged the papers with the clerk of the district court, must be made in writing and before demurrer or plea, or it is waived; hence, where defendant did not raise such an objection to the jurisdiction of the court until after plea, and then orally, he was not in a position to complain of the action of the court in overruling his objection. *State v. Chevigny*, 48 Mont. 382, 384, 138 Pac. 257.

Cited or applied before amendment as section 2, p. 249, Session Laws 1891, in *State v. Smith*, 12 Mont. 378, 30 Pac. 679; as section 1730, Penal Code, in *State v. Brett*, 16 Mont. 360, 366, 40 Pac. 873; *State v. Bowser*, 21 Mont. 133, 136, 53 Pac. 179.

11802. Duty of county attorney. The county attorney of the proper county must inquire into and make full examination of all facts and circumstances, touching the commission of any public offense, whenever the offender has been held to answer, and must file an information setting forth the crime committed according to the facts ascertained on such examination and from the written testimony taken thereon, whether it be the offense charged in the complaint on which the examination was held or not.

History: Ap. p. Sec. 2, p. 249, L. 1891; en. Sec. 1731, Pen. C. 1895; re-en. Sec. 9106, Rev. C. 1907.

11803. Duty of court when county attorney does not file information. If the county attorney determines in any such case that an information ought not to be filed, he must make, subscribe, and file with the clerk of the court a statement in writing containing his reasons in fact and in law for not filing an information in such case; such statement must be filed at and during the term or session of the court to which the offender is held to appear for trial; and in such case the court must examine such statement together with the evidence filed in the case, and if upon such examination the court is not satisfied with such statement, the county attorney must be directed and required by the court to file the proper information and bring the case to trial.

History: En. Sec. 2, p. 249, L. 1891; amd. Sec. 1732, Pen. C. 1895; re-en. Sec. 9107, Rev. C. 1907.

Cited or applied as section 1732, Penal

Code, in *State ex rel. Donovan v. District Court*, 26 Mont. 275, 278, 67 Pac. 943; as section 9107, Revised Codes, in *State v. Chevigny*, 48 Mont. 382, 384, 138 Pac. 257.

11804. Information may be amended. An information may be amended in matter of substance or form at any time before the defendant pleads, without leave of court. The information may be amended at any time thereafter and on the trial as to all matters of form, at the discretion of the court, where the same can be done without prejudice to the rights of the defendant. No amendment must cause any delay of the trial unless for good cause shown by affidavit.

Related sections: 11849, 11870, 11874, 11889.

History: En. Sec. 1733, Pen. C. 1895; re-en. Sec. 9108, Rev. C. 1907.

The statute authorizes an information to be amended, as to a mere matter of form; thus, an information charging "the ma-

licious destruction of property" may properly be amended by substituting the word "burning" for the word "destruction." *State v. Siefert*, 54 Mont. 165, 168, 168 Pac. 524.

Cited or applied as section 9108, Revised Codes, in *State v. Duncan*, 40 Mont. 531, 533, 534, 107 Pac. 510.

11805. Indorsement on information. The county attorney must indorse upon the information at the time of filing the same, the names of the witnesses for the state, if known.

History: En. Sec. 1734, Pen. C. 1895; re-en. Sec. 9109, Rev. C. 1907.

Where the name of defendant's wife was indorsed on the information among the names of the witnesses for the state, over his objection that she was incompetent, but on the trial she was excluded from testifying, on a renewal of the objection, defendant was not prejudiced by being compelled to object to her competency before the jury. *State v. Sloan*, 22 Mont. 293, 297, 56 Pac. 364. See, also, *State v. Biggs*, 45 Mont. 400, 403, 123 Pac. 410.

Where the name of a witness known to the county attorney at the time of filing the information was omitted, but there was no evidence of bad faith, it was proper to permit it to be indorsed thereon the day before the trial. *State v. Calder*, 23 Mont. 504, 507, 59 Pac. 903.

Where the name of a witness known to the county attorney at the filing of the information was omitted, but there was no evidence of bad faith, the court properly permitted it to be indorsed on the day before trial. *State v. Calder*, 23 Mont. 504, 506, 59 Pac. 903. See, also, *State v. Biggs*, 45 Mont. 400, 403, 123 Pac. 410.

The act of the county attorney in indorsing, under the directions of the court, the names of other witnesses on the information is not error, as such witnesses were subject to be examined whether their names were indorsed on the information or not. *State v. Schnepel*, 23 Mont. 523, 524, 59 Pac. 927. See, also, *State v. Newman*, 34 Mont. 434, 437, 87 Pac. 462; *State v. Biggs*, 45 Mont. 400, 403, 123 Pac. 410.

It is error to deny the county attorney the right to examine witnesses because their names do not appear on the information, in the absence of a showing on the part of the defendant that the county attorney did in fact know of their existence

at the time the information was filed. *State v. Schnepel*, 23 Mont. 523, 525, 59 Pac. 927.

A witness in a criminal prosecution may not be prevented from testifying because his name was not indorsed on the information, where it does not appear from the record that the county attorney knew of the witness at the time he filed the information. *State v. Newman*, 34 Mont. 434, 437, 87 Pac. 462. See, also, *State v. Biggs*, 45 Mont. 400, 403, 123 Pac. 410.

The purpose of this section is to advise the defendant, so far as reasonably possible, of the witnesses known to the county attorney when the information is filed, whom the state intends to call against him, in order that he may have the opportunity to make inquiry with respect to them and prepare himself to meet their testimony. *State v. McDonald*, 51 Mont. 1, 4, 149 Pac. 279. See, also, *State v. Gaimos*, 53 Mont. 118, 121, 162 Pac. 596.

Omission by the county attorney to indorse the names of material witnesses for the state upon an information, as required by this section, either because not known to him at the inception of the prosecution, or through negligence or ignorance, is not sufficient reason to make their testimony inadmissible. *State v. McDonald*, 51 Mont. 1, 4, 149 Pac. 279.

This provision was intended as a safeguard to the accused against surprise and unfair advantage by the prosecuting officer, and to serve the same purpose as a like provision relating to the disclosure of the names of witnesses upon whose testimony an indictment is found and returned by a grand jury, as provided in section 11836. *State v. McDonald*, 51 Mont. 1, 5, 149 Pac. 279.

Even though a county attorney knew of witnesses whose names he did not indorse upon the information at the time of its

filing, it was still within the discretion of the trial court to allow them to be examined. *State v. McDonald*, 51 Mont. 1, 6, 149 Pac. 279.

Where a county attorney violated the express injunction of this section by indorsing the name of a witness as "John

Doe Mitchell," whereas he knew his true name to be "James Mitchell," defendant was not entitled to a new trial in the absence of a showing that he had been prejudiced by the officer's delinquency. *State v. McDonald*, 51 Mont. 1, 6, 149 Pac. 279.

CHAPTER 16.

THE GRAND JURY—ITS FORMATION, POWERS, AND DUTIES—FINDING AND PRESENTING AN INDICTMENT.

- Section 11806. When the Grand Jury May Be Drawn.
 11807. Number of Grand Jury.
 11808. Who May Challenge the Panel or an Individual Juror.
 11809. Cause of Challenge to Panel.
 11810. Cause of Challenge to an Individual Juror.
 11811. Manner of Making and Trying Challenges.
 11812. Decision Upon Challenges.
 11813. Effect of Allowing a Challenge to a Panel.
 11814. Effect of Allowing a Challenge to an Individual Juror.
 11815. Same.
 11816. Appointment of a Foreman.
 11817. Oath of Grand Jurors.
 11818. Charge of the Court.
 11819. Retirement of the Grand Jury—Discharge of.
 11820. Special Grand Jury.
 11821. Powers of Grand Jury.
 11822. Foreman May Administer Oaths.
 11823. Evidence Receivable Before Grand Jury.
 11824. Grand Jury Not Bound to Hear Evidence for the Defendant.
 11825. Degree of Evidence to Warrant Indictment.
 11826. Grand Jurors Must Declare Their Knowledge as to Commission of Public Offense.
 11827. Must Inquire Into Cases of Persons Imprisoned, etc.
 11828. Entitled to Access to Public Prison, etc.
 11829. When and From Whom They May Ask Advice, and Who May Be Present During Their Sessions.
 11830. Secrets of Grand Jury to Be Kept, Except, etc.
 11831. Grand Juror Not to Be Questioned for His Conduct, Except, etc.
 11832. To Examine Books of County Officers.
 11833. Indictment Must Be Found by Five Jurors, Indorsed, etc.
 11834. If Not Found.
 11835. Effect of Dismissal.
 11836. Names of Witnesses Inserted at Foot of Indictment.
 11837. Indictment, How Presented and Filed.
 11838. Indictment to Be Signed by Prosecuting Attorney and Foreman.
 11839. Warrant to Issue.
 11840. Indorsement of Bail.

11806. When the grand jury may be drawn. A grand jury must only be drawn and summoned when the district judge in his discretion considers a grand jury necessary and shall so order.

Related section: 8918.

For text treatment of "Grand Jury," see

History: En. Sec. 1750, Pen. C. 1895;

Cal. Jur. and 12 R. C. L. 1013.

re-en. Sec. 9110, Rev. C. 1907.

11807. Number of grand jury. A grand jury must consist of seven persons, of whom five must concur to find an indictment.

History: En. Sec. 1751, Pen. C. 1895;

re-en. Sec. 9111, Rev. C. 1907.

117, Third Division Revised Statutes 1879;

re-enacted as section 117, Third Division Compiled Statutes 1887.

Note.—Earlier acts were section 53, p. 227, Bannack Statutes; amended as section

11808. Who may challenge the panel or an individual juror. The state or a person whose case will come before a grand jury, may challenge the panel of a grand jury, or an individual juror.

History: En. Sec. 118, p. 209, Cod. Stat. 1887; amd. Sec. 1752, Pen. C. 1895; re-en. 1871; re-en. Sec. 118, 3d Div. Rev. Stat. Sec. 9112, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 118, 3d Div. Comp. Stat. 894.

11809. Cause of challenge to panel. A challenge to the panel may be interposed for the following cause:

1. That the grand jurors were not selected, drawn, or summoned according to law.

History: En. Sec. 119, p. 209, Cod. Stat. 1871; re-en. Sec. 119, 3d Div. Rev. Stat. 1879; re-en. Sec. 119, 3d Div. Comp. Stat. 1887; amd. Sec. 1753, Pen. C. 1895; re-en. Sec. 9113, Rev. C. 1907. Cal. Pen. C. Sec. 895.

Cited or applied as section 119, p. 209, Codified Statutes 1871, in *Territory v. Ingersoll*, 3 Mont. 454.

11810. Cause of challenge to an individual juror. A challenge to an individual grand juror may be interposed for one or more of the following causes only:

1. That he is a minor.
2. That he is an alien.
3. That he is insane.
4. That he is a prosecutor upon a charge against the defendant.
5. That he is a witness on the part of the prosecution, and has been served with process or bound by an undertaking as such.

6. That a state of mind exists on his part in reference to the case, or to either party, which will prevent him from acting impartially and without prejudice to the substantial rights of the party challenging; but no person is disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, provided it satisfactorily appears to the court, upon his declaration, under oath, or otherwise, that he can and will, notwithstanding such opinion, act impartially and fairly upon the matters to be submitted to him.

History: Ap. p. Sec. 120, p. 209, Cod. Stat. 1871; re-en. Sec. 120, 3d Div. Rev. Stat. 1879; re-en. Sec. 120, 3d Div. Comp. Stat. 1887; en. Sec. 1754, Pen. C. 1895; re-en. Sec. 9114, Rev. C. 1907. Cal. Pen. C. Sec. 896.

Cited or applied as section 120, p. 209, Codified Statutes 1871, in *Territory v. Ingersoll*, 3 Mont. 454.

Bias as ground of challenge to grand juror in absence of statutory provision, see note in 4 Ann. Cas. 873.

11811. Manner of making and trying challenges. The challenges mentioned in the last three sections may be oral or in writing, and must be tried by the court.

History: En. Sec. 1755, Pen. C. 1895; re-en. Sec. 9115, Rev. C. 1907. Cal. Pen. C. Sec. 897.

11812. Decision upon challenges. The court must allow or disallow the challenge, and the clerk must enter its decision upon the minutes.

History: En. Sec. 1756, Pen. C. 1895; re-en. Sec. 9116, Rev. C. 1907. Cal. Pen. C. Sec. 898.

11813. Effect of allowing a challenge to a panel. If a challenge is allowed to the panel of the grand jury, the court must discharge the same, and order a new grand jury to be summoned in accordance with law.

History: En. Sec. 123, p. 210, Cod. Stat. 1887; re-en. Sec. 1757, Pen. C. 1895; re-en. 1871; re-en. Sec. 123, 3d Div. Rev. Stat. Sec. 9117, Rev. C. 1907. Cal. Pen. C. 1879; re-en. Sec. 123, 3d Div. Comp. Stat. Sec. 899.

11814. Effect of allowing a challenge to an individual juror. If the challenge is allowed to an individual juror for the first, second, or third causes, such person must be excused from the jury, and if there be not enough jurors to complete the panel left, the court must complete the same.

History: En. Sec. 124, p. 210, Cod. Stat. 1887; re-en. Sec. 1758, Pen. C. 1895; re-en. 1871; re-en. Sec. 124, 3d Div. Rev. Stat. Sec. 9118, Rev. C. 1907. 1879; re-en. Sec. 124, 3d Div. Comp. Stat.

11815. Same. When a challenge is allowed to any juror for either the fourth or fifth causes therefor, the court must charge the juror that he must not act as a grand juror in any manner in the investigation of the charge against the person challenging; and that any violation of this order will be considered a contempt of court.

History: En. Sec. 125, p. 210, Cod. Stat. 1887; re-en. Sec. 1759, Pen. C. 1895; Stat. 1871; re-en. Sec. 125, 3d Div. Rev. re-en. Sec. 9119, Rev. C. 1907. Cal. Pen. Stat. 1879; re-en. Sec. 125, 3d Div. Comp. C. Sec. 900.

11816. Appointment of a foreman. From the persons summoned to serve as grand jurors and appearing, the court must appoint a foreman. The court must also appoint a foreman when the person already appointed is excused or discharged before the grand jury is dismissed.

History: En. Sec. 53, p. 227, Bannack 1879; re-en. Sec. 117, 3d Div. Comp. Stat. Stat.; amd. Sec. 117, p. 209, Cod. Stat. 1887; amd. Sec. 1760, Pen. C. 1895; re-en. 1871; re-en. Sec. 117, 3d Div. Rev. Stat. 9120, Rev. C. 1907. Cal. Pen. C. Sec. 902.

11817. Oath of grand jurors. When the panel of the grand jury is completed, the following oath or affirmation, in substance, must be administered to them: "You, and each of you, do solemnly swear (or affirm) that you will diligently inquire into, and true presentment make, of all public offenses against the laws of this state, committed or triable by indictment in this county, of which you have or can obtain legal evidence. You will present no one through hatred, malice, or ill-will, nor leave any unrepresented through fear, favor, or affection, or for any reward, or the promise or hope thereof; but in all your presentments you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God."

History: En. Sec. 54, p. 227, Bannack 1887; re-en. Sec. 1761, Pen. C. 1895; re-en. Stat. Stat.; re-en. Sec. 126, p. 210, Cod. Stat. Sec. 9121, Rev. C. 1907. Cal. Pen. C. Secs. 1871; re-en. Sec. 126, 3d Div. Rev. Stat. 903 and 904. 1879; re-en. Sec. 126, 3d Div. Comp. Stat.

11818. Charge of the court. The grand jury, being impaneled and sworn, must be charged by the court. In doing so, the court must give them such information as it may deem proper, or as is required by law, as to their duties.

History: En. Sec. 227, p. 210, Cod. Stat. 1887; amd. Sec. 1762, Pen. C. 1895; re-en. 1871; re-en. Sec. 127, 3d Div. Rev. Stat. Sec. 9122, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 127, 3d Div. Comp. Stat. 905.

11819. Retirement of the grand jury—Discharge of. The grand jury must then retire to a private room, and inquire into the offenses cognizable by them. On the completion of the business before them, they must be discharged by the court; but, whether the business is completed or not, they are discharged by the final adjournment of the court, or by order of the court.

History: En. Sec. 1763, Pen. C. 1895; re-en. Sec. 9123, Rev. C. 1907. Cal. Pen. C. Sec. 906.

11820. Special grand jury. If an offense is committed during the sitting of the court, after the discharge of a grand jury, the court may, in its discretion, require the county attorney to file an information, or may direct an order to be entered that the sheriff summon another grand jury. Such grand jury must be drawn and summoned as in other cases.

History: En. Sec. 1764, Pen. C. 1895; re-en. Sec. 9124, Rev. C. 1907. Cal. Pen. C. Sec. 907.

11821. Powers of grand jury. The grand jury must inquire, under the direction of the court, into all public offenses committed and triable by indictment within the county, and return to the court any indictment found.

History: En. Sec. 143, p. 212, Cod. Stat. 1871; re-en. Sec. 143, 3d Div. Rev. Stat. 1879; re-en. Sec. 143, 3d Div. Comp. Stat. 1887; amd. Sec. 1780, Pen. C. 1895; re-en. Sec. 9125, Rev. C. 1907. Cal. Pen. C. Sec. 915.

Cited or applied as section 143, p. 212, Codified Statutes 1871, in *Territory v. Corbett*, 3 Mont. 50.

11822. Foreman may administer oaths. The foreman may administer an oath to any witness appearing before the grand jury.

History: En. Sec. 56, p. 227, Bannack Stat.; re-en. Sec. 132, p. 211, Cod. Stat. 1871; re-en. Sec. 132, 3d Div. Rev. Stat. 1879; re-en. Sec. 132, 3d Div. Comp. Stat. 1887; amd. Sec. 1781, Pen. C. 1895; re-en. Sec. 9126, Rev. C. 1907. Cal. Pen. C. Sec. 918.

11823. Evidence receivable before the grand jury. In the investigation of a charge for the purpose of an indictment, the grand jury must receive no other evidence than such as is given by witnesses produced and sworn before them, or furnished by legal documentary evidence. The grand jury must receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay or secondary evidence.

History: En. Sec. 145, p. 213, Cod. Stat. 1871; re-en. Sec. 145, 3d Div. Rev. Stat. 1879; re-en. Sec. 145, 3d Div. Comp. Stat. 1887; amd. Sec. 1782, Pen. C. 1895; re-en. Sec. 9127, Rev. C. 1907. Cal. Pen. C. Sec. 919.

11824. Grand jury not bound to hear evidence for the defendant. The grand jury is not bound to hear evidence for the defendant, but may do so, and it is their duty to weigh all the evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they should order such evidence to be produced, and for that purpose may require the county attorney to issue process for the witnesses.

History: En. Sec. 146, p. 213, Cod. Stat. 1871; re-en. Sec. 146, 3d Div. Rev. Stat. 1879; re-en. Sec. 146, 3d Div. Comp. Stat. 1887; amd. Sec. 1783, Pen. C. 1895; re-en. Sec. 9128, Rev. C. 1907. Cal. Pen. C. Sec. 920.

11825. Degree of evidence to warrant indictment. The grand jury ought to find an indictment when all the evidence before them, taken together, if unexplained or uncontradicted, would, in their judgment, warrant a conviction by a trial jury.

History: En. Sec. 147, p. 213, Cod. Stat. 1887; amd. Sec. 1784, Pen. C. 1895; re-en. 1871; re-en. Sec. 147, 3d Div. Rev. Stat. Sec. 9129, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 147, 3d Div. Comp. Stat. 921.

11826. Grand jurors must declare their knowledge as to commission of public offense. If a member of a grand jury knows, or has reason to believe, that a public offense, triable by indictment within the county has been committed, he must declare the same to his fellow jurors, who must thereupon investigate the same.

History: En. Sec. 148, p. 213, Cod. Stat. 1887; amd. Sec. 1785, Pen. C. 1895; re-en. 1871; re-en. Sec. 148, 3d Div. Rev. Stat. Sec. 9130, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 148, 3d Div. Comp. Stat. 922.

11827. Must inquire into cases of persons imprisoned, etc. The grand jury must inquire into the case of every person imprisoned in the jail of the county on a criminal charge, not indicted, or against whom an information has not been filed; into the condition and management of the public prisons in the county, and into the wilful and corrupt misconduct in office, of public officers of every description, within the county.

History: En. Sec. 149, p. 213, Cod. Stat. 1887; amd. Sec. 1786, Pen. C. 1895; re-en. 1871; re-en. Sec. 149, 3d Div. Rev. Stat. Sec. 9131, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 149, 3d Div. Comp. Stat. 923.

11828. Entitled to access to public prison, etc. The grand jury is entitled to free access, at all reasonable times, to the public prisons, and to an examination, without charge, of all public records within the county.

History: Same as Sec. 11827. En. Sec. 1787, Pen. C. 1895; re-en. Sec. 9132, Rev. C. 1907. Cal. Pen. C. Sec. 924.

11829. When and from whom they may ask advice, and who may be present during their sessions. The grand jury may, at all reasonable times, ask the advice of the court, or the judge thereof, or of the county attorney; but unless such advice is asked, the judge of the court must not be present during the sessions of the grand jury. The county attorney of the county may, at all times, appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by them, and may interrogate witnesses before them whenever they or he thinks it necessary; but no other person is permitted to be present during the sessions of the grand jury except the members and witnesses actually under examination, and no person must be permitted to be present during the expression of their opinions or giving their votes upon any matter before them.

History: Ap. p. Secs. 134, 135, p. 211, Cod. Stat. 1871; re-en. Secs. 134, 135, 3d Div. Rev. Stat. 1879; re-en. Secs. 134, 135, 3d Div. Comp. Stat. 1887; en. Sec. 1788, Pen. C. 1895; re-en. Sec. 9133, Rev. C. 1907. Cal. Pen. C. Sec. 925.

The objects of this section are to preserve to the body alone clothed with authority of indicting for public offenses—

the grand jury—a right to have witnesses interrogated by official counsel at its sessions, and to keep the proceedings of that body as secret as possible by excluding therefrom those not vested with official authority. It does not affect the right of the attorney-general to be present before the grand jury. State ex rel. Nolan v. District Court, 22 Mont. 25, 31, 55 Pac. 916.

11830. Secrets of grand jury to be kept, except, etc. Every member of the grand jury must keep secret whatever he himself or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before them; but may, however, be required by any court to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given before the court, or to disclose the testimony given before them by any person, upon a charge against such person for perjury in giving his testimony, or upon trial therefor.

History: Ap. p. Secs. 67, 68, p. 229, Bannack Stat.; re-en. Secs. 128, 129, p. 211, Cod. Stat. 1871; re-en. Secs. 128, 129, 3d

Div. Comp. Stat. 1887; en. Sec. 1789, Pen. C. 1895; re-en. Sec. 9134, Rev. C. 1907. Cal. Pen. C. Sec. 926.

11831. Grand juror not to be questioned for his conduct, except, etc. A grand juror cannot be questioned for anything he may say, or any vote he may give in the grand jury relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty, in making an accusation or giving testimony to his fellow jurors.

History: En. Sec. 1790, Pen. C. 1895; re-en. Sec. 9135, Rev. C. 1907. Cal. Pen. C. Sec. 927.

11832. To examine books of county officers. It is the duty of the grand jury, whenever summoned, to make a complete examination of the books, records, and accounts of all the officers of the county, and especially those pertaining to the revenue, and report thereon; and if, in their judgment, the services of an expert are necessary, the grand jury has power to employ one at an agreed compensation not to exceed five dollars per day, payable as other county charges. The judge, upon the impanelment of a grand jury, must charge them especially as to their duties under this section.

History: En. Sec. 1791, Pen. C. 1895; re-en. Sec. 9136, Rev. C. 1907. Cal. Pen. C. Sec. 928.

11833. Indictment must be found by five jurors, indorsed, etc. An indictment cannot be found without the concurrence of at least five grand jurors. When so found, it must be indorsed, "A true bill," and the indorsement must be signed by the foreman of the grand jury.

History: En. Sec. 71, p. 229, Bannack Stat.; amd. Sec. 150, p. 213, Cod. Stat. 1871; re-en. Sec. 150, 3d Div. Rev. Stat. 1879; re-en. Sec. 150, 3d Div. Comp. Stat. 1887; amd. Sec. 1810, Pen. C. 1895; re-en.

Sec. 9137, Rev. C. 1907. Cal. Pen. C. Sec. 940.

Cited or applied as section 1810, Penal Code, in *State v. Shafer*, 26 Mont. 11, 15, 66 Pac. 463.

11834. If not found. When there is not a concurrence of five grand jurors in finding an indictment, the foreman must certify, under his hand, that no true bill was found.

History: En. Sec. 72, p. 230, Bannack Stat.; re-en. Sec. 151, p. 213, Cod. Stat. 1871; re-en. Sec. 151, 3d Div. Rev. Stat. 1879; re-en. Sec. 151, 3d Div. Comp. Stat.

1887; amd. Sec. 1811, Pen. C. 1895; re-en. Sec. 9138, Rev. C. 1907. Cal. Pen. C. Sec. 941.

11835. Effect of dismissal. The dismissal of the charge does not prevent its resubmission to a grand jury as often as the court may direct.

But without such direction it cannot be resubmitted, nor can an information be filed.

History: En. Sec. 1812, Pen. C. 1895; re-en. Sec. 9139, Rev. C. 1907. Cal. Pen. C. Sec. 942.

11836. Names of witnesses inserted at foot of indictment. When an indictment is found, the names of the witnesses examined before the grand jury must be inserted at the foot of the indictment, or indorsed thereon, before it is presented to the court, also the name of the prosecuting witness as such; but no such indictment must be quashed for want of such indorsement if the indorsement is made before the motion to quash is disposed of.

History: Ap. p. Secs. 75, 78, p. 230, Bannack Stat.; re-en. Secs. 154, 157, p. 214, Cod. Stat. 1871; re-en. Secs. 154, 157, 3d Div. Rev. Stat. 1879; re-en. Secs. 154, 157, 3d Div. Comp. Stat. 1887; en. Sec. 1813, Pen. C. 1895; re-en. Sec. 9140, Rev. C. 1907. Cal. Pen. C. Sec. 943.

Witnesses whose names are not indorsed on the indictment may testify at the trial

where the indictment was not found upon their testimony. But if the names of all of the witnesses upon whose testimony the indictment is found are not indorsed, the indictment will be set aside upon timely motion. *State v. McDonald*, 51 Mont. 1, 6, 149 Pac. 279.

Cited or applied as section 1813, Penal Code, in *State v. Calder*, 23 Mont. 504, 506, 59 Pac. 903.

11837. Indictment, how presented and filed. An indictment, when found by the grand jury, must be presented by their foreman, in their presence, to the court, and must be filed with the clerk.

History: En. Sec. 73, p. 230, Bannack Stat.; re-en. Sec. 152, p. 213, Cod. Stat. 1871; re-en. Sec. 152, 3d Div. Rev. Stat. 1879; re-en. Sec. 152, 3d Div. Comp. Stat.

1887; amd. Sec. 1814, Pen. C. 1895; re-en. Sec. 9141, Rev. C. 1907. Cal. Pen. C. Sec. 944.

11838. Indictment to be signed by prosecuting attorney and foreman. An indictment must be signed by the attorney prosecuting; and when the grand jury returns any indictment into court, the judge must examine it, and if the foreman has neglected to indorse it, "A true bill," with his name signed thereto, or if the attorney prosecuting has neglected to sign his name, the court must cause the foreman to indorse, or the attorney prosecuting to sign it, as the case may require, in the presence of the grand jury.

History: En. Sec. 77, p. 230, Bannack Stat.; re-en. Sec. 156, p. 214, Cod. Stat. 1871; re-en. Sec. 156, 3d Div. Rev. Stat.

1879; re-en. Sec. 156, 3d Div. Comp. Stat. 1887; re-en. Sec. 1815, Pen. C. 1895; re-en. Sec. 9142, Rev. C. 1907.

11839. Warrant to issue. When an indictment is found against a defendant, a warrant must issue for his arrest, and he must be immediately brought before the court, unless the court order otherwise.

History: Ap. p. Sec. 158, p. 214, Cod. Stat. 1871; re-en. Sec. 158, 3d Div. Rev. Stat. 1879; re-en. Sec. 158, 3d Div. Comp. Stat. 1887; en. Sec. 1816, Pen. C. 1895; re-en. Sec. 9143, Rev. C. 1907.

Cited or applied as section 9143, Revised Codes, in *State v. McDonald*, 51 Mont. 1, 6, 149 Pac. 279.

11840. Indorsement of bail. If the offense is bailable, the court may indorse on the back of the warrant the amount in which the defendant is to be held, or admitted to bail, pending the action; or he may order the clerk to enter the amount in which the defendant is admitted to bail,

in the minutes of the court, and then the clerk must indorse the amount of the warrant.

History: En. Sec. 159, p. 214, Cod. Stat. 1887; en. Sec. 1817, Pen. C. 1895; re-en. 1871; re-en. Sec. 159, 3d Div. Rev. Stat. Sec. 9144, Rev. C. 1907.
1879; re-en. Sec. 159, 3d Div. Comp. Stat.

CHAPTER 17.

RULES OF PLEADING AND FORM OF THE INFORMATION AND INDICTMENT.

- Section 11841. Form of, and Rules of Pleading.
11842. First Pleading by the State Is Indictment, or Information.
11843. Indictment, or Information, What to Contain.
11844. Form of.
11845. It Must Be Direct and Certain.
11846. When Defendant Is Indicted by Fictitious Name, etc.
11847. Must Charge But One Offense and in One Form, Except Where It May Be Committed by Different Means.
11848. Statement as to Time When Offense Was Committed.
11849. Statement as to Person Injured, or Intended to Be.
11850. Construction of Words Used.
11851. Words Used in a Statute Need Not Be Strictly Followed.
11852. Indictment or Information, When Sufficient.
11853. Not Insufficient for Defect of Form, Not Tending to Prejudice Defendant.
11854. Presumptions of Law, etc., Need Not Be Stated.
11855. Judgments, etc., How Pleaded.
11856. Private Statutes, How Pleaded.
11857. Pleading for Libel.
11858. Pleading for Forgery, Where Instrument Has Been Destroyed or Withheld by Defendant.
11859. Pleading for Perjury or Subornation of Perjury.
11860. Pleading for Larceny or Embezzlement.
11861. Pleading for Selling, Exhibiting, etc., Lewd and Obscene Books.
11862. Indictment Against Several, One or More May Be Acquitted.
11863. Distinction Between Accessory Before the Fact and Principal Abrogated.
11864. Indictment Against Accessory.
11865. Accessory May Be Indicted and Tried, Though Principal Has Not Been.
11866. Record of Indictment or Information.
11867. No Disclosure Prior to Arrest.
11868. Of What Offense a Defendant May Be Convicted.
11869. Allegation as to Partnership Property.
11870. Amendment Allowed on Trial, When.
11871. Trial to Proceed.
11872. Effect of Verdict.
11873. Affidavits Defectively Entitled, Valid.
11874. When Not Material.

11841. Form of, and rules of pleading. All the forms of pleading in criminal actions, and the rules by which the sufficiency of pleadings is to be determined, are those prescribed by this code.

History: En. Sec. 80, p. 231, Bannack Stat.; re-en. Sec. 162, p. 216, Cod. Stat. 1871; re-en. Sec. 162, 3d Div. Rev. Stat. 1879; re-en. Sec. 162, 3d Div. Comp Stat. 1887; amd. Sec. 1830, Pen. C. 1895; re-en. Sec. 9145, Rev. C. 1907. Cal. Pen. C. Sec. 948.

Under this section, an information is sufficient where it conforms substantially

to the form laid down in section 11844, and to the rules prescribed in section 11852, and there is no imperfection in matter or form thereof tending to the prejudice of a substantial right of the defendant on its merits, as provided in section 11853. *State v. Stickney*, 29 Mont. 523, 528, 75 Pac. 201.

Cited or applied as section 9145, Revised Codes, in *State v. Brown*, 38 Mont. 309, 312, 99 Pac. 954.

11842. First pleading by the state is indictment, or information. The first pleading on the part of the state is either an indictment or an information.

History: Ap. p. Sec. 81, p. 231, Bannack Stat.; re-en. Sec. 163, p. 216, Cod. Stat. 1871; re-en. Sec. 163, 3d Div. Rev. Stat. 1879; re-en. Sec. 163, 3d Div. Comp.

Stat. 1887; amd. Sec. 1831, Pen. C. 1895; re-en. Sec. 9146, Rev. C. 1907. Cal. Pen. C. Sec. 949.

11843. Indictment, or information, what to contain. The indictment or information must contain:

1. The title of the action, specifying the name of the court in which the same is filed, and the names of the parties;

2. A statement of the facts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended.

History: En. Sec. 82, p. 231, Bannack Stat.; amd. Sec. 164, p. 216, Cod. Stat. 1871; re-en. Sec. 164, 3d Div. Rev. Stat. 1879; re-en. Sec. 164, 3d Div. Comp. Stat. 1887; amd. Sec. 1832, Pen. C. 1895; re-en. Sec. 9147, Rev. C. 1907. Cal. Pen. C. Sec. 950.

Where an information was against one as George Howard, alias James Howard, alias Joe Kirby, the same was in compliance with the requirements of this section and section 11845; the information having charged his prior conviction, and the different names being for the purpose of identifying him as the person previously convicted. *State v. Howard*, 30 Mont. 518, 520, 77 Pac. 50.

Where, in an information for murder, the only mention of the county in which the crime was committed appeared in the caption describing the court in which, and the officer by whom, the charge was preferred, while in the charging part of the document the word "county" was not used at all, and the only reference words found there were in the expression "then and there," the first of which referred to a preceding date alleged as the date of the crime, while the latter indicated some place, not described, where the defendant then was, it was held that, in the absence of an expression such as "in the county aforesaid" or "said county," thus referring to the caption, the information did not allege the county in which the offense had been committed, and was fatally defective. *State v. Beesskove*, 34 Mont. 41, 50, 85 Pac. 376.

If a person of common understanding would, from the reading of an information, know that the defendant in a given case was charged with murder in the first degree, the defendant will be presumed to have had a like knowledge, and be held not to have been prejudiced by the use of peculiar phraseology in it. *State v. McGowan*, 36 Mont. 422, 425, 93 Pac. 552.

Allegations sufficient for a common-law indictment for murder are sufficient for an information under the code. *State v. Hayes*, 38 Mont. 219, 221, 99 Pac. 434.

An information alleging that at a specified time and place defendant did "wilfully, unlawfully, feloniously, premeditatedly, and of his malice aforethought kill and murder" a designated person, is sufficient to charge murder, though it does not set forth facts showing how and by what means the actual killing was accomplished. *State v. Hayes*, 38 Mont. 219, 221, 99 Pac. 434. See, also, *State v. Nielson*, 38 Mont. 451, 454, 455, 100 Pac. 229; *State v. Guerin*, 51 Mont. 250, 257, 152 Pac. 747.

An information alleging that accused assaulted deceased, violently threw her to the ground, and otherwise assaulted her until she became unconscious, and then permitted her to lie exposed to inclement weather, and neglected to provide her with necessary clothing and protection, by reason of which assault and exposure she died, charged murder, and the state was not bound to elect whether it would proceed on the theory of assault, or exposure, or both. *State v. Rees*, 40 Mont. 571, 575, 107 Pac. 893.

An information charging larceny of money by a bailee does not have to specifically allege the ownership. *State v. Hall*, 45 Mont. 498, 125 Pac. 639.

This section is but a paraphrase of the common-law rules covering the requisites of criminal pleading. *State v. Wolf*, 56 Mont. 493, 496, 185 Pac. 556.

An information charging a violation of the sedition act is sufficient under this section and the two following sections, in stating that the defendant had said that the American soldiers "would act in the same way and commit the same atrocities as have been reported of the German soldiers," without setting out the atrocities reported to have been committed by the German soldiers. *State v. Wyman*, 56 Mont. 600, 607, 186 Pac. 1.

Cited or applied as section 1832, Penal Code, in *State v. Dickinson*, 21 Mont. 595, 55 Pac. 539; *State v. Hliboka*, 31 Mont. 455, 461, 78 Pac. 965, 3 Ann. Cas. 934; *State v. Phillips*, 36 Mont. 112, 118, 92

Pac. 299; as section 9147, Revised Codes, 104 Pac. 556; State v. Harris, 51 Mont. in State v. Pemberton, 39 Mont. 530, 532, 496, 154 Pac. 198.

11844. Form of. It may be substantially in the following form: The State of Montana against A B. In the district court of the district in and for the county of, the day of, A. D. nineteen, A B is accused by the grand jury of the county of, by this indictment, (or by the county attorney by this information) of the crime of (giving its legal appellation, such as murder, arson, or the like, or designating it as felony or misdemeanor), committed as follows: The said A B on the day of, A. D. nineteen, at the county of (here set forth the act or omission charged as an offense); contrary to the form, force and effect of the statute in such case made and provided, and against the peace and dignity of the State of Montana."

History: En. Sec. 1833, Pen. C. 1895; re-en. Sec. 9148, Rev. C. 1907. Cal. Pen. C. Sec. 951.

An information need not necessarily contain a specific allegation that the prosecution is conducted in the name and by authority of the state, as required by the constitution, where it appears from the record that it is so conducted, is in the form prescribed by this section, and meets the requirements of section 11852. State v. Barry, 45 Mont. 582, 585, 124 Pac. 774.

Cited or applied as section 1833, Penal Code, in State v. Stickney, 29 Mont. 523,

528, 75 Pac. 201; State v. Howard, 30 Mont. 518, 520, 77 Pac. 50; State v. Tully, 31 Mont. 365, 369, 78 Pac. 760, 3 Ann. Cas. 824; as section 9148, Revised Codes, in State v. Brown, 38 Mont. 309, 312, 99 Pac. 954; State v. Sieff, 54 Mont. 165, 168, 168 Pac. 524; State v. Wyman, 56 Mont. 600, 607, 186 Pac. 1.

Form and sufficiency of indictment or information, see note in 3 A. S. R. 279.

Validity and construction of statute prescribing form of indictment, see notes in Ann. Cas. 1918C, 551, 569, 574.

11845. It must be direct and certain. The indictment or information must be direct and certain, as it regards—

1. The party charged;
2. The offense charged;
3. The particular circumstances of the offense charged, when they are necessary to constitute a complete offense.

History: Ap. p. Sec. 83, p. 231, Bannack Stat.; re-en. Sec. 165, p. 216, Cod. Stat. 1871; re-en. Sec. 165, 3d Div. Rev. Stat. 1879; re-applied. Sec. 165, 3d Div. Comp. Stat. 1887; en. Sec. 1834, Pen. C. 1895; re-en. Sec. 9149, Rev. C. 1907. Cal. Pen. C. Sec. 952.

An information for murder should directly allege that death resulted from the mortal wounds inflicted by defendant. State v. Keerl, 29 Mont. 508, 511, 75 Pac. 362, 101 Am. St. Rep. 579.

An information not objectionable on the ground that it did not contain a statement of facts constituting the offense in ordinary and concise language, or that it was not direct and certain in its statements. State v. Phillips, 36 Mont. 112, 118, 92 Pac. 299.

An information which, after charging forgery of a promissory note, added that defendant, knowing that the instrument was false, uttered, passed, and published the same as true and genuine, with intent to defraud, etc., while dangerously near in-

vading the provisions of this section, is not fatally defective. State v. Mitten, 36 Mont. 376, 381, 92 Pac. 969.

This section is but a paraphrase of the common-law rules covering the requisites of criminal pleading. State v. Wolf, 56 Mont. 493, 496, 185 Pac. 556.

An information charging sedition, in that defendant knowingly, unlawfully, etc., uttered and published disloyal, profane, violent, scurrilous, contemptuous, and abusive language concerning the soldiers and the uniform of the United States, was defective, under this section, for failure to set out the specific words characterizing his remarks as disloyal, contemptuous, etc. State v. Wolf, 56 Mont. 493, 500, 185 Pac. 556.

Cited or applied as section 165, Third Division Revised Statutes 1879, in Territory v. Layne, 7 Mont. 225, 14 Pac. 705; as section 1834, Penal Code, in State v. Bloor, 20 Mont. 574, 582, 52 Pac. 611; State v. Howard, 30 Mont. 518, 520, 77 Pac. 50; State v. Hliboka, 31 Mont. 455,

461, 78 Pac. 965, 3 Ann. Cas. 934; as section 9149, Revised Codes, in *State v. Hayes*, 38 Mont. 219, 221, 99 Pac. 434; *State v. Pemberton*, 39 Mont. 530, 533, 104 Pac. 556; *State v. Wyman*, 56 Mont. 600, 610, 186 Pac. 1.

When charge of crime in indictment or information may be in the language of the statute, see note in 94 Am. Dec. 253.

11846. When defendant is indicted by fictitious name, etc. When a defendant is charged by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being charged by the name mentioned in the indictment or information.

History: En. Sec. 187, p. 218, Cod. Stat. 1887; amd. Sec. 1835, Pen. C. 1895; re-en. Sec. 187, 3d Div. Rev. re-en. Sec. 9150, Rev. C. 1907. Cal. Pen. Stat. 1879; re-en. Sec. 187, 3d Div. Comp. C. Sec. 953.

11847. Must charge but one offense and in one form, except where it may be committed by different means. The indictment or information must charge but one offense, but the same offense may be set forth in different forms under different counts, and when the offense may be committed by the use of different means, the means may be alleged in the alternative in the same counts.

History: En. Sec. 188, p. 218, Cod. Stat. 1871; re-en. Sec. 188, 3d Div. Rev. Stat. 1879; re-en. Sec. 188, 3d Div. Comp. Stat. 1887; amd. Sec. 1836, Pen. C. 1895; re-en. Sec. 9151, Rev. C. 1907. Cal. Pen. C. Sec. 954.

Any objection to the inclusion in one count of the statement of different forms of the same offense must be made in the district court, and before plea. The objection that the information charges two offenses is waived by a failure to demur. *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647.

An information charging forgery in two counts, the first by the false making of the instrument, and the second by uttering it, is not vulnerable to attack by demurrer for charging two offenses, the inhibition of this section, that the indictment or information must charge but one offense, being directed to pleadings which charge more than one distinct offense and not to one which in each of two counts charges the same offense. *State v. Mitton*,

37 Mont. 366, 370, 96 Pac. 926, 127 Am. St. Rep. 732. See *First National Bank v. Barrett*, 52 Mont. 359, 365, 157 Pac. 951.

Under this section, the information can charge but one offense, and it is only for that offense that a conviction can be had. *State v. Gaimos*, 53 Mont. 118, 124, 162 Pac. 596.

In a criminal prosecution, different acts of the same sort may be proved for the purpose of corroboration. *State v. Gaimos*, 53 Mont. 118, 124, 162 Pac. 596.

An information against a defendant for knowingly and without consideration taking or receiving from a prostitute any of her earnings, and also with living upon the earnings of a prostitute, charges two distinct offenses in violation of this section. *State v. Kanakaris*, 54 Mont. 180, 182, 169 Pac. 42.

Cited or applied as section 188, p. 218, Codified Statutes 1871, in *Territory v. Fox*, 3 Mont. 440; as section 1836, Penal Code, in *State v. Gordon*, 35 Mont. 458, 464, 90 Pac. 173.

11848. Statement as to time when offense was committed. The precise time at which the offense was committed need not be stated in the indictment or information, but it may be alleged to have been committed at any time before finding or filing thereof, except where the time is a material ingredient in the offense.

History: En. Sec. 84, p. 231, Bannack Stat.; re-en. Sec. 166, p. 216, Cod. Stat. 1871; re-en. Sec. 166, 3d Div. Rev. Stat. 1879; re-en. Sec. 166, 3d Div. Comp. Stat. 1887; amd. Sec. 1837, Pen. C. 1895; re-en. Sec. 9152, Rev. C. 1907. Cal. Pen. C. Sec. 955.

An indictment for rape, which charges the commission of the offense "on or

about" a certain day, sufficiently states the time. *State v. Thompson*, 10 Mont. 549, 557, 27 Pac. 349.

Unless time is a material ingredient in the offense or in charging the same, it is only necessary to prove that it was committed prior to the finding or filing of the information or indictment. *State v. Rogers*, 31 Mont. 1, 4, 77 Pac. 293.

A conviction for burglary will not be disturbed because it appears it was committed on a day prior to that alleged in the information, where defendant was not prejudiced. *State v. Rogers*, 31 Mont. 1, 4, 77 Pac. 293.

In a prosecution for homicide, where all the evidence showed that, if committed at all, the offense was committed on the day alleged in the information, the court was warranted in charging the jury that it was not necessary that the homicide should have been committed on the precise date laid in the pleading, but it was sufficient if it appeared that it had been committed prior to the filing of the information. *State v. Vanella*, 40 Mont. 326, 342, 106 Pac. 364, 20 Ann. Cas. 398.

If the information charging rape fixes a definite date, and the evidence discloses that a mistake occurred in the pleading, and that the identical crime charged was committed upon another date, but before

the information was filed, the prosecution will not necessarily fail, though defendant may be entitled to a continuance because of the variance. *State v. Gaimos*, 53 Mont. 118, 123, 162 Pac. 596.

The statute does not require the prosecution, in a trial for rape, to prove the crime to have been committed on the very day named in the indictment or information as that of its commission. *State v. Gaimos*, 53 Mont. 118, 123, 162 Pac. 596.

Cited or applied as section 9152, Revised Codes, in *State v. Harris*, 51 Mont. 496, 502, 154 Pac. 198.

Sufficiency of indictment charging commission of offense "on or about" certain date, see note in 7 Ann. Cas. 775.

Sufficiency of indictment alleging commission of crime on blank date, or on impossible date, see notes in 19 Ann. Cas. 930; 2 L. R. A. (N. S.) 251.

11849. Statement as to person injured, or intended to be. When an offense involves the commission of, or attempt to commit, a private injury, and is described with sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured, or intended to be injured, is not material.

Related sections: 11804, 11870, 11874, 11989.

History: En. Sec. 189, p. 218, Cod. Stat. 1871; re-en. Sec. 189, 3d Div. Rev. Stat. 1879; re-en. Sec. 189, 3d Div. Comp. Stat. 1887; re-en. Sec. 1838, Pen. C. 1895; re-en. Sec. 9153, Rev. C. 1907. Cal. Pen. C. Sec. 956.

Where a defendant was convicted of crime upon an information stating the name of the injured person as "Frank Rex," whereas his own testimony showed that it was "Frank Röck," and there was not any showing that he was named or had been known as Frank Rex, it was held

that, the names being unlike in sound or spelling, and the information having failed to disclose any description which made it at all certain that "Frank Rex" and "Frank Röck" were one and the same person, the variance was fatal to conviction. *State v. Lee*, 33 Mont. 203, 205, 83 Pac. 223.

While a mistake in the name of the person injured is not to be deemed material, if the injury is so described in other respects as to identify it, yet if it is not so identified by the evidence as that it can be said to be the same, there is such a variance as amounts to a failure of proof, and the conviction cannot be sustained. *State v. Moxley*, 41 Mont. 402, 409, 110 Pac. 83.

11850. Construction of words used. The words used in an indictment or information are construed in their usual acceptance in common language, except such words and phrases as are defined by law, which are construed according to their legal meaning.

History: En. Sec. 86, p. 231, Bannack Stat.; re-en. Sec. 168, p. 216, Cod. Stat. 1871; re-en. Sec. 168, 3d Div. Rev. Stat. 1879; re-en. Sec. 168, 3d Div. Comp. Stat.

1887; re-en. Sec. 1839, Pen. C. 1895; re-en. Sec. 9154, Rev. C. 1907. Cal. Pen. C. Sec. 957.

11851. Words used in a statute need not be strictly followed. Words used in a statute to define a public offense need not be strictly pursued in the indictment or information, but other words conveying the same meaning may be used.

History: En. Sec. 87, p. 231, Bannack Stat.; re-en. Sec. 169, p. 216, Cod. Stat. 1871; re-en. Sec. 169, 3d Div. Rev. Stat. 1879; re-en. Sec. 169, 3d Div. Comp. Stat. 1887; amd. Sec. 1840, Pen. C. 1895; re-en.

Sec. 9155, Rev. C. 1907. Cal. Pen. C. Sec. 958.

An information charging defendant with having permitted a female to be or remain

in his saloon for the purpose of being there supplied with liquor, which alleged that defendant was "then and there" the owner and manager having charge and control, was sufficient to apprise him that he was accused of being in control "for the time being," the words used in the statute under which the prosecution was brought,

11852. Indictment or information, when sufficient. The indictment or information is sufficient, if it can be understood therefrom—

1. That it is entitled in a court having authority to receive it, though the name of the court be not stated;

2. If an indictment, that it was found by a grand jury of the county in which the court was held; or if an information, that it was subscribed and presented to the court by the county attorney of the county in which the court was held;

3. That the defendant is named, or, if his name cannot be discovered, that he is described by a fictitious name, with a statement that his true name is to the jury or county attorney, as the case may be, unknown;

4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county, is triable therein;

5. That the offense was committed at some time prior to the time of finding the indictment or filing of the information;

6. That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended;

7. That the act or omission charged as the offense is stated with such a degree of certainty as to enable the court to pronounce judgment upon a conviction, according to the right of the case.

History: Ap. p. Sec. 88, p. 231, Bannack Stat.; re-en. Sec. 170, p. 216, Cod. Stat. 1871; re-en. Sec. 170, 3d Div. Rev. Stat. 1879; re-en. Sec. 170, 3d Div. Comp. Stat. 1887; re-en. Sec. 1841, Pen. C. 1895; re-en. Sec. 9156, Rev. C. 1907. Cal. Pen. C. Sec. 959.

Where an indictment for secreting a public record alleged that defendant, being an officer and having in his custody a certain public record, and which said record came into and was in his hands, and was by him feloniously secreted, and defendant contended that the charging part was an unfinished sentence, and that the allegation respecting secretion was merely descriptive of the record, the offense was charged with "such a degree of certainty" that judgment might be pronounced according to the right of the case, as required by this section. *State v. Bloor*, 20 Mont. 574, 582, 52 Pac. 611.

Subdivision 4 of this section has no application to an information charging larceny. *State v. De Wolfe*, 29 Mont. 415, 422, 74 Pac. 1084.

The exception named in subdivision 4 of this section refers to offenses committed in

and was therefore sufficient under this section. *State v. Conway*, 38 Mont. 42, 43, 98 Pac. 654.

Cited or applied as section 169, p. 216, Codified Statutes 1871, in *Territory v. Corbett*, 3 Mont. 50; as section 169, Third Division Compiled Statutes 1887, in *State v. Fournier*, 12 Mont. 235, 29 Pac. 824.

the manner named in sections 11707 and 11708. *State v. Tully*, 31 Mont. 365, 369, 78 Pac. 760, 3 Ann. Cas. 824.

For sufficiency of complaint charging violation of local option law, see *State v. O'Brien*, 35 Mont. 482, 494, 90 Pac. 514, 10 Ann. Cas. 1006.

This section, and sections 11841 and 11844 were intended to relax the technical rules which prevailed at the common law, and to simplify the procedure to the end that regard to substance rather than form should be the rule of interpretation. *State v. Brown*, 38 Mont. 309, 312, 99 Pac. 954.

Stating facts, charging a crime, in the form of participial clauses, though that is a method of pleading not to be commended, does not render an information abortive. The proper way, however, to make the charge is by direct allegation. *State v. Pemberton*, 39 Mont. 530, 532, 104 Pac. 556.

An information for robbery is sufficient, with respect to the crime, if it enables a person of ordinary understanding to know what is intended to be charged. *State v. Pemberton*, 39 Mont. 530, 532, 104 Pac. 556.

It is sufficient, in an information for robbery, to charge that the taking was ac-

complished "with" force and fear, instead of "by means of force and fear." The word "with," in this connection, is equivalent to the expression "by means of." *State v. Pemberton*, 39 Mont. 530, 533, 104 Pac. 556.

An information need not necessarily contain a specific allegation that the prosecution is conducted in the name and by authority of the state, as required by the constitution, where it appears from the record that it is so conducted, is in the form prescribed by section 11844, and meets the requirements of this section. *State v. Barry*, 45 Mont. 582, 584, 124 Pac. 774.

An information in charging the crime of sedition is fatally defective on the ground of uncertainty where it is alleged that the offense consists of the statement that "she wished the people would revolt and that she would shoulder a gun and get the

president the first one," for the reason that a presumption must be indulged in to determine whether the defendant meant the people or the president of the United States or the people or president of some other country. *State v. Smith*, 58 Mont. 567, 572, 194 Pac. 131.

Cited or applied as section 170, Third Division Revised Statutes, 1879, in *Territory v. Harding*, 6 Mont. 323, 12 Pac. 750; *Territory v. Layne*, 7 Mont. 225, 14 Pac. 705; as section 1841, Penal Code, in *State v. Bloor*, 20 Mont. 574, 582, 52 Pac. 611; *State v. Gill*, 21 Mont. 151, 153, 53 Pac. 184; *State v. De Wolfe*, 29 Mont. 415, 421, 74 Pac. 1084; *State v. Stickney*, 29 Mont. 523, 529, 75 Pac. 201; *State v. Howard*, 30 Mont. 518, 521, 77 Pac. 50; *State v. Rogers*, 31 Mont. 1, 4, 77 Pac. 293; *State v. Beesskove*, 34 Mont. 41, 50, 85 Pac. 376.

11853. Not insufficient for defect of form not tending to prejudice defendant. No indictment or information is insufficient, nor can the trial, judgment, or other proceedings thereon be affected by reason of any defect or imperfection in matter of form which does not tend to the prejudice of a substantial right of the defendant upon its merits.

Related section: 11870.

History: En. Sec. 1842, Pen. C. 1895; re-en. Sec. 9157, Rev. C. 1907. Cal. Pen. C. Sec. 960.

A conviction for burglary will not be disturbed because it appears it was committed on a day prior to that alleged in the information, where defendant was not prejudiced. *State v. Rogers*, 31 Mont. 1, 5, 77 Pac. 293.

Under this section and section 11874 an information alleging that defendant feloniously, wilfully, and of his "deliberately" premeditated malice aforethought committed the homicide in question, was not fatally defective because of the mere misspelling of the word "deliberately." *State v. Lu Sing*, 34 Mont. 31, 35, 85 Pac. 521, 9 Ann. Cas. 344.

While in this state much of the particularity required at the common law has been dispensed with, and no defect or imperfection in form, which does not prejudice the substantial rights of the defendant, can affect a judgment of conviction, still time and place are essential elements, and must be so alleged as to enable a person of common understanding to know what is intended by the charge. *State v. Beesskove*, 34 Mont. 41, 50, 85 Pac. 376.

11854. Presumptions of law, etc., need not be stated. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an indictment or information.

History: En. Sec. 90, p. 232, Bannack Stat.; re-en. Sec. 172, p. 217, Cod. Stat. 1871; re-en. Sec. 172, 3d Div. Rev. Stat. 1879; re-en. Sec. 172, 3d Div. Comp. Stat.

1887; amd. Sec. 1843, Pen. C. 1895; re-en. Sec. 9158, Rev. C. 1907. Cal. Pen. C. Sec. 961.

11855. Judgments, etc., how pleaded. In pleading a judgment or other determination of, or proceeding before a court or officer of special jurisdiction, it is not necessary to state the facts constituting jurisdiction; but the judgment or determination may be stated as given or made, or the proceedings had. The facts constituting jurisdiction, however, must be established on the trial.

History: En. Sec. 91, p. 232, Bannack 1887; amd. Sec. 1844, Pen. C. 1895; re-en. Stat.; re-en. Sec. 173, p. 217, Cod. Stat. Sec. 9159, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 173, 3d Div. Rev. Stat. 962.
1879; re-en. Sec. 173, 3d Div. Comp. Stat.

11856. Private statutes, how pleaded. In pleading a private statute, or a right derived therefrom, it is sufficient to refer to the statute by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

History: En. Sec. 92, p. 232, Bannack 1887; amd. Sec. 1845, Pen. C. 1895; re-en. Stat.; re-en. Sec. 174, p. 217, Cod. Stat. Sec. 9160, Rev. C. 1907, Cal. Pen. C. Sec. 1871; re-en. Sec. 174, 3d Div. Rev. Stat. 963.
1879; re-en. Sec. 174, 3d Div. Comp. Stat.

11857. Pleading for libel. An indictment or information for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled, of the defamatory matter on which the indictment or information is founded; but it is sufficient to state generally, that the same was published concerning him, and the fact that it was so published must be established on the trial.

Related sections: 5689, 10989. 1887; amd. Sec. 1846, Pen. C. 1895; re-en.
History: En. Sec. 190, p. 218, Cod. Stat. Sec. 9161, Rev. C. 1907. Cal. Pen. C. 1871; re-en. Sec. 190, 3d Div. Rev. Stat. Sec. 964.
1879; re-en. Sec. 190, 3d Div. Comp. Stat.

11858. Pleading for forgery, where instrument has been destroyed or withheld by defendant. When an instrument which is the subject of an indictment or information for forgery has been destroyed or withheld by the act or the procurement of the defendant, and the fact of such destruction or withholding is alleged in the indictment or information, and established on the trial, the misdescription of the instrument is immaterial.

History: En. Sec. 191, p. 219, Cod. Stat. Sufficiency of indictment with respect to
1871; re-en. Sec. 191, 3d Div. Rev. Stat. setting out instrument forged, see notes in
1879; re-en. Sec. 191, 3d Div. Comp. Stat. 17 Ann. Cas. 499; 31 L. E. A. (N. S.) 215.
1887; amd. Sec. 1847, Pen. C. 1895; re-en.
Sec. 9162, Rev. C. 1907. Cal. Pen. C.
Sec. 965.

11859. Pleading for perjury or subornation of perjury. In an indictment or information for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court and before whom the oath alleged to be false was taken, and that the court, or person before whom it was taken, had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment or information need not set forth the pleadings, record, or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

History: En. Sec. 192, p. 219, Cod. Stat. 1879; re-en. Sec. 192, 3d Div. Comp. Stat.
1871; re-en. Sec. 192, 3d Div. Rev. Stat. 1887; amd. Sec. 1848, Pen. C. 1895; re-en.

Sec. 9163, Rev. C. 1907. Cal. Pen. C. Sec. 966.

Necessary allegations in indictment for

perjury as to person administering oath, see notes in 9 Ann. Cas. 765; 32 L. R. A. (N. S.) 142.

11860. Pleading for larceny or embezzlement. In an indictment or information for the larceny or embezzlement of money, banknotes, certificates of stock, or valuable securities, or for a conspiracy to cheat or defraud a person of any such property, it is sufficient to allege larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, banknotes, certificates of stock, or valuable securities, without specifying the coin, number, denomination, or kind thereof.

Related sections: 11368, 12008.

History: En. Sec. 1849, Pen. C. 1895; re-en. Sec. 9164, Rev. C. 1907. Cal. Pen. C. Sec. 967.

In an information charging larceny by a bailee it is not necessary to describe the money. *State v. Hall*, 45 Mont. 498, 125 Pac. 639.

Necessity of alleging value of property in indictment for larceny, see note in 2 Ann. Cas. 857.

Necessity of alleging value of money embezzled in indictment therefor, see notes in 13 Ann. Cas. 554; 36 L. R. A. (N. S.) 933.

11861. Pleading for selling, exhibiting, etc., lewd and obscene books. An indictment or information for exhibiting, publishing, passing, selling, or offering to sell, or having in possession, with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper, or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing; but it is sufficient to state generally the fact of the lewdness or obscenity thereof.

History: En. Sec. 1850, Pen. C. 1895; re-en. Sec. 9165, Rev. C. 1907. Cal. Pen. C. Sec. 968.

Sufficiency of description of obscene matter in indictment for publishing, distributing, or mailing same, see note in 9 Ann. Cas. 47.

11862. Indictment against several, one or more may be acquitted. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.

History: En. Sec. 93, p. 232, Bannack Stat.; re-en. Sec. 175, p. 217, Cod. Stat. 1871; re-en. Sec. 175, 3d Div. Rev. Stat. 1879; re-en. Sec. 175, 3d Div. Comp. Stat.

1887; amd. Sec. 1851, Pen. C. 1895; re-en. Sec. 9166, Rev. C. 1907. Cal. Pen. C. Sec. 970.

11863. Distinction between accessory before the fact and principal abrogated. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, must be prosecuted, tried, and punished as principals, and no other facts need be alleged in any indictment or information against such an accessory, than are required in an indictment or information against his principal.

History: En. Sec. 1852, Pen. C. 1895; re-en. Sec. 9167, Rev. C. 1907. Cal. Pen. C. Sec. 971.

An indictment for murder, charging defendant as principal, is sustained by proof that he was guilty of advising and encouraging the crime. *State v. Geddes*, 22 Mont. 68, 86, 55 Pac. 919.

This section does not violate the provision of the constitution guaranteeing to an accused the right to demand the nature and cause of the accusation. *State v. Geddes*, 22 Mont. 68, 87, 55 Pac. 919.

An instruction should follow the language of the statute, and state that accessories are those who "advise and encourage," instead of "advise or encourage,"

the commission of crime. *State v. Geddes*, 22 Mont. 68, 88, 55 Pac. 919.

The object of the code was to put the principal and the agent upon the same legal ground, and to authorize the principal to be charged as if he himself had committed the felony in fact perpetrated by his agent by his advice and encouragement. *State v. Geddes*, 22 Mont. 68, 88, 55 Pac. 919.

The distinction between accessories before the fact and principals is abrogated, and all are treated as principals. *State v. De Wolfe*, 29 Mont. 415, 423, 74 Pac. 1084.

In a prosecution for arson, where there is some testimony that defendant procured another to set the fire, the giving of in-

structions, embodying the provisions of this section and section 10732, is proper; as is also the refusing of others, directing the jury to find for the defendant, unless they are satisfied beyond a reasonable doubt that he was present personally and set the fire himself. *State v. Chevigny*, 48 Mont. 382, 385, 138 Pac. 257.

Instructions substantially in the words of this section and section 10732, defining a principal and telling the jury that the distinction between a principal and an accessory had been abrogated by statute, were not improper as implying that a felony had been committed. *State v. Wiley*, 53 Mont. 383, 387, 164 Pac. 84.

11864. Indictment against accessory. An indictment or information against any accessory to any felony may be found in any county where the offense of such accessory may have been committed, notwithstanding the principal offense may have been committed in another county, and the like proceeding may be had therein in all respects, as if the principal offense had been committed in the same county.

History: En. Sec. 186, p. 218, Cod. Stat. 1871; re-en. Sec. 186, 3d Div. Rev. Stat. 1879; re-en. Sec. 186, 3d Div. Comp. Stat.

1887; re-en. Sec. 1853, Pen. C. 1895; re-en. Sec. 9168, Rev. C. 1907.

11865. Accessory may be indicted and tried, though principal has not been. An accessory to the commission of a felony may be prosecuted, tried, and punished, though the principal may be neither prosecuted nor tried, and though the principal may have been acquitted.

History: Ap. p. Sec. 95, p. 232, Bannack Stat.; re-en. Sec. 177, p. 217, Cod. Stat. 1871; re-en. Sec. 177, 3d Div. Rev. Stat. 1879; re-en. Sec. 177, 3d Div. Comp. Stat. 1887; en. Sec. 1854, Pen. C. 1895;

re-en. Sec. 9169, Rev. C. 1907. Cal. Pen. C. Sec. 972.

Cited or applied as section 1854, Penal Code, in *State v. De Wolfe*, 29 Mont. 415, 423, 74 Pac. 1084.

11866. Record of indictment or information. Every indictment or information must be recorded by the clerk within five days after the same is filed, in a book to be kept for that purpose. The judge must compare the record with the original indictment or information and certify the correctness thereof. In case the original indictment or information is lost or destroyed, the defendant may be tried upon a copy taken from the record, and certified by the clerk.

History: En. Sec. 96, p. 232, Bannack Stat.; re-en. Sec. 178, p. 217, Cod. Stat. 1871; re-en. Sec. 178, 3d Div. Rev. Stat.

1879; re-en. Sec. 178, 3d Div. Comp. Stat. 1887; amd. Sec. 1855, Pen. C. 1895; re-en. Sec. 9170, Rev. C. 1907.

11867. No disclosure prior to arrest. No grand juror, county attorney, clerk, judge, or other officer must disclose the fact that an indictment is found or an information filed until the defendant has been arrested, except any disclosure that may be necessarily incident to the issue and service of a warrant to arrest the defendant. A violation of this section may be punished as a misdemeanor by fine or imprisonment, or both.

Related sections: 10946, 11628.

History: En. Sec. 99, p. 233, Bannack Stat.; re-en. Sec. 181, p. 218, Cod. Stat. 1871; re-en. Sec. 181, 3d Div. Rev. Stat.

1879; re-en. Sec. 181, 3d Div. Comp. Stat. 1887; amd. Sec. 1856, Pen. C. 1895; re-en. Sec. 9171, Rev. C. 1907.

11868. Of what offense a defendant may be convicted. Upon the trial of an indictment or information, the defendant may be convicted of the crime charged therein, or of a lesser degree of the same crime, or of any crime included in the crime charged, or of an attempt to commit the crime charged, or of an attempt to commit a lesser degree of the crime charged, or of an attempt to commit any crime included in the crime charged.

History: Ap. p. Sec. 100, p. 233, Bannack Stat.; re-en. Sec. 182, p. 218, Cod. Stat. 1871; re-en. Sec. 182, 3d Div. Rev. Stat. 1879; re-en. Sec. 182, 3d Div. Comp. Stat. 1887; en. Sec. 1857, Pen. C. 1895; re-en. Sec. 9172, Rev. C. 1907.

where the evidence is such as to show that defendant is guilty of the offense charged or is entitled to an acquittal. *State v. McDonald*, 51 Mont. 1, 16, 149 Pac. 279.

Cited or applied as section 9172, Revised Codes, in *State v. Collins*, 53 Mont. 213, 163 Pac. 102.

While the offense of kidnaping includes the minor offenses of false imprisonment and assault in the third degree, the court need not so formulate the charge that the jury may find the defendant guilty of a lower offense or of an included offense,

Right of jury under indictment or information charging act declared by statute to be murder in first degree to convict for lesser degree, see note in 12 Ann. Cas. 1081.

11869. Allegation as to partnership property. When any offense is committed upon, or in relation to, any personal property belonging to several partners or owners, the indictment or information for such offense is sufficient if it allege such property to belong to any one or more of such partners or owners without naming them all.

History: En. Sec. 103, p. 233, Bannack Stat.; re-en. Sec. 185, p. 218, Cod. Stat. 1871; re-en. Sec. 185, 3d Div. Rev. Stat.

1879; re-en. Sec. 185, 3d Div. Comp. Stat. 1887; amd. Sec. 1858, Pen. C. 1895; re-en. Sec. 9173, Rev. C. 1907.

11870. Amendment allowed on trial, when. Upon the trial of an indictment or information, when a variance between the allegation therein and the proof, in respect to time, or in name or description of any place, person or thing, shall appear, the court may, in its judgment, if the defendant cannot be thereby prejudiced in his defense on the merits, direct the indictment or information to be amended, according to the proof, on such terms as to the postponement of the trial, to be had before the same or another jury, as the court may deem reasonable.

Related sections: 11804, 11849, 11874, 11889.

History: En. Sec. 1859, Pen. C. 1895; re-en. Sec. 9174, Rev. C. 1907.

variance which may be material enough to justify a continuance. *State v. Gaimos*, 53 Mont. 118, 124, 162 Pac. 596.

Cited or applied as section 9174, Revised Codes, in *State v. Duncan*, 40 Mont. 531, 534, 107 Pac. 510; *State v. Reed*, 53 Mont. 292, 299, 163 Pac. 477, Ann. Cas. 1917E, 783.

An information for the crime of robbery may be amended at the close of the testimony for the state, so as to change the name of the person from whom it is alleged the property was feloniously taken. *State v. Oliver*, 20 Mont. 318, 321, 50 Pac. 1018.

Constitutionality of statutes permitting amendment of indictments, see notes in 3 Ann. Cas. 558; Ann. Cas. 1913A, 402.

If a crime is charged as having been committed on one date, while the evidence shows that it was done at another time, but within the statute of limitations, the prosecution does not fail, but there is a

Effect on conviction of failure to give accused an opportunity to plead after amendment of indictment, see notes in 13 L. R. A. (N. S.) 815; 45 L. R. A. (N. S.) 667.

11871. Trial to proceed. After such amendment, the trial, whenever the same shall be proceeded with, must proceed in the same manner and with the same consequences as if no such variance had occurred.

History: En. Sec. 1860, Pen. C. 1895; re-en. Sec. 9175, Rev. C. 1907.

11872. Effect of verdict. A verdict and judgment which is given after the making of any such amendment is of the same force and effect as if the indictment or information had originally been found in its amended form.

History: En. Sec. 1861, Pen. C. 1895; re-en. Sec. 9176, Rev. C. 1907.

11873. Affidavits defectively entitled, valid. It is not necessary to entitle an affidavit or deposition in the action, whether taken before or after information, or after indictment, or upon an appeal; but if made without a title, or with an erroneous title, it is as valid and effectual for every purpose as if it were duly entitled, if it intelligibly refer to the proceeding, indictment, information, or appeal in which it is made.

History: En. Sec. 2590, Pen. C. 1895; re-en. Sec. 9547, Rev. C. 1907. Cal. Pen. C. Sec. 1401.

11874. When not material. Neither a departure from the form or mode prescribed by this code in respect to any pleading or proceeding, nor an error or mistake therein, renders it invalid, unless it has actually prejudiced the defendant, or tended to his prejudice, in respect to a substantial right.

Related sections: 11804, 11849, 11870, 11889, 12125.

History: En. Sec. 2600, Pen. C. 1895; re-en. Sec. 9548, Rev. C. 1907. Cal. Pen. C. Sec. 1404.

Where no substantial right of the defendant has been disregarded, a mere apex juris is not sufficient cause for the reversal or modification of the judgment. *State v. Connors*, 27 Mont. 227, 229, 70 Pac. 715.

Under this section and section 11853 an information alleging that defendant feloniously, wilfully, and of his "deliberately" premeditated malice aforethought, committed the homicide in question, was not fatally defective because of the mere misspelling of the word "deliberately." *State v. Lu Sing*, 34 Mont. 31, 35, 85 Pac. 521, 9 Ann. Cas. 344.

While in this state much of the particularity required at the common law has been dispensed with, and no defect or imperfection in form, which does not prejudice the substantial rights of the defendant, can affect a judgment of conviction, still time and place are essential elements, and must be so alleged as to enable a person of common understanding to know what is intended by the charge. *State v. Beesskove*, 34 Mont. 41, 50, 85 Pac. 376.

Query, as to whether the rule, that "error appearing, prejudice will be presumed," as announced prior to the adoption of the codes in 1895, was abrogated by this section and section 12125, which declare the law to be that no judgment shall be held invalid for mere technical errors not affecting the substantial rights of the defendant. *State v. Gordon*, 35 Mont. 458, 466, 90 Pac. 173.

Where, under the evidence submitted at a trial for assault in the second degree,

the defendant might have been convicted of assault in either the second or third degree, but was found guilty of the lower degree, the judgment will not be reversed for a purely technical error in giving an instruction. *State v. Tracey*, 35 Mont. 552, 555, 90 Pac. 791.

An information charging an attempt to obtain money by false pretenses, though defective in form and containing immaterial averments, is sufficient to sustain a conviction, when it is apparent that the defendant has suffered no prejudice. *State v. Phillips*, 36 Mont. 112, 118, 92 Pac. 299.

A technical error in pleading a prior conviction in another state will not work a reversal if the punishment imposed does not exceed the proper limit. *State v. Paisley*, 36 Mont. 237, 248, 92 Pac. 566.

Where the record in a criminal cause did not show that the jurors were not all present when the verdict was delivered, and from the minutes no other fair inference could be drawn than that they were actually present at the time, the omission from the minutes of a statement that their names were called prior to the delivery of the verdict was not an error which prejudiced defendant in his substantial rights. *State v. De Lea*, 36 Mont. 531, 536, 93 Pac. 814.

A judgment of conviction will not be reversed for error in the trial proceedings, unless it has prejudiced, or tended to prejudice, the defendant in respect to a substantial right. *State v. Rhys*, 40 Mont. 131, 134, 105 Pac. 494.

Where a county attorney violated the express injunction of section 11805 by indorsing the name of a witness as "John Doe Mitchell," whereas he knew his true name to be "James Mitchell," defendant

was not entitled to a new trial in the absence of a showing that he had been prejudiced by the officer's delinquency. *State v. McDonald*, 51 Mont. 1, 7, 149 Pac. 279.

Cited or applied as section 9548, Revised Codes, in *State v. Vanella*, 40 Mont. 326,

345, 106 Pac. 364, 20 Ann. Cas. 398; *State v. Crean*, 43 Mont. 47, 60, 114 Pac. 603, Ann. Cas. 1912C, 424; *State v. Murphy*, 46 Mont. 591, 129 Pac. 1058; *State v. Jones*, 48 Mont. 505, 515, 139 Pac. 441; *State v. Russell*, 52 Mont. 583, 160 Pac. 655.

CHAPTER 18.

ARRAIGNMENT OF THE DEFENDANT.

- Section 11875. Defendant Must Be Arraigned in the Court Where the Indictment or Information Is Filed or Transferred.
 11876. Defendant, When to Be Present at Arraignment.
 11877. If in Custody, to Be Brought Before Court.
 11878. If Discharged on Bail, Warrant to Issue.
 11879. Warrant, by Whom and How Issued.
 11880. Form of Warrant.
 11881. Directions in the Warrant.
 11882. Warrant, How Served.
 11883. Proceedings on Giving Bail in Another County.
 11884. Ordering Defendant Into Custody or Increasing Bail When Indictment Is for Felony.
 11885. Defendant, if Present When Order Made, to Be Committed; if Not, Warrant to Issue.
 11886. Right to Counsel on Arraignment.
 11887. Compensation of Attorney for Accused.
 11888. Arraignment, How Made.
 11889. Proceedings on Arraignment, When Defendant Is Not Indicted by His True Name.
 11890. Time Allowed, and How Defendant May Answer on Arraignment.

11875. Defendant must be arraigned in the court where the indictment or information is filed or transferred. When the indictment or information is filed, the defendant must be arraigned thereon before the court in which it is filed, unless the cause is transferred to some other county for trial.

History: En. Sec. 1880, Pen. C. 1895; re-en. Sec. 9177, Rev. C. 1907. Cal. Pen. C. Sec. 976.

Note.—For early act relating to arraignment and plea, corresponding to the sections in this chapter, see sections 129 to 153, p. 236 to 241, Bannack Statutes; sections 193 to 224, p. 220 to 223, Codified Statutes 1871; sections 193 to 224, Third Division Revised Statutes 1879; sections 193 to 225, Third Division Compiled Statutes 1887.

Cited or applied as section 1880, Penal Code, in *State v. De Wolfe*, 29 Mont. 415, 418, 74 Pac. 1084.

Necessity of arraignment in criminal case, see notes in 12 Ann. Cas. 704; Ann. Cas. 1915C, 1073.

May defendant be arraigned after commencement of trial, see note in 27 L. R. A. (N. S.) 1181.

Waiver of right of arraignment, see note in Ann. Cas. 1917D, 829.

11876. Defendant, when to be present at arraignment. If the indictment or information be for felony, the defendant must be personally present; but if for a misdemeanor, he may appear upon the arraignment by counsel.

History: En. Sec. 199, p. 220, Cod. Stat. 1871; re-en. Sec. 199, 3d Div. Rev. Stat. 1879; re-en. Sec. 200, 3d Div. Comp. Stat. 1887; amd. Sec. 1881, Pen. C. 1895; re-en. Sec. 9178, Rev. C. 1907. Cal. Pen. C. Sec. 977.

11877. If in custody, to be brought before court. When his personal appearance is necessary, if he is in custody, the court may direct and the officer in whose custody he is, must bring him before it to be arraigned.

History: Ap. p. Sec. 193, p. 220, Cod. Stat. 1871; re-en. Sec. 193, 3d Div. Rev. Stat. 1879; re-en. Sec. 193, 3d Div. Comp. Stat. 1887; amd. Sec. 1882, Pen. C. 1895; re-en. Sec. 9179, Rev. C. 1907. Cal. Pen. C. Sec. 978.

11878. If discharged on bail, warrant to issue. If the defendant has been discharged on bail, or has desposited money instead thereof, and does not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or of money deposited, may direct the clerk to issue a warrant for his arrest.

Related section: 12160.

re-en. Sec. 9180, Rev. C. 1907. Cal. Pen. C. Sec. 979.

11879. Warrant, by whom and how issued. The clerk on the application of the county attorney may, at any time after the order, whether the court is sitting or not, issue a warrant to one or more counties.

History: En. Sec. 1884, Pen. C. 1895; re-en. Sec. 9181, Rev. C. 1907. Cal. Pen. C. Sec. 980.

11880. Form of warrant. The warrant upon the indictment or information must, if the offense is a felony, be substantially in the following form:

"In the district court of the district in and for the county of The State of Montana: To any sheriff, constable, marshal, or policeman in this state: An indictment having been found (or information filed) on the day of, A. D. nineteen, in the district court of the county of, charging C D with the crime of (designating it generally); you are, therefore, commanded forthwith to arrest the above named C D, and bring him before that court (or if the indictment or information has been sent to another court, then before that court, naming it) to answer said indictment (or information); or if the court be not in session, that you deliver him into the custody of the sheriff of the county of"

Given under my hand, with the seal of said court affixed, this day of, A. D. Clerk."

[Seal.]

History: En. Sec. 1885, Pen. C. 1895; re-en. Sec. 9182, Rev. C. 1907. Cal. Pen. C. Sec. 981.

11881. Directions in the warrant. The defendant, when arrested under a warrant for an offense not bailable, must be held in custody by the sheriff of the county in which the indictment is found on information filed, unless admitted to bail after an examination upon a writ of habeas corpus; but if the offense is bailable, there must be added to the body of the warrant a direction to the following effect: "Or, if he require it, that you take him before any magistrate in that county, or in the county in which you arrest him, that he may give bail to answer to the indictment or information," and the court, upon directing it to issue, must fix the amount of bail, and an indorsement must be made thereon and signed by the clerk, to the following effect: "The defendant is to be admitted to bail in the sum of dollars."

History: En. Sec. 1886, Pen. C. 1895; re-en. Sec. 9183, Rev. C. 1907. Cal. Pen. C. Sec. 982.

11882. Warrant, how served. The warrant may be served in any county, in the same manner as a warrant of arrest, as provided in sections 11733 to 11750 of this code.

History: En. Sec. 1887, Pen. C. 1895; re-en. Sec. 9184, Rev. C. 1907. Cal. Pen. C. Sec. 983.

11883. Proceedings on giving bail in another county. If the defendant is brought before a magistrate of another county for the purpose of giving bail, the magistrate must proceed in respect thereto, in the same manner as if the defendant had been brought before him upon a warrant of arrest, and the same proceedings must be had thereon.

History: En. Sec. 1888, Pen. C. 1895; re-en. Sec. 9185, Rev. C. 1907. Cal. Pen. C. Sec. 984.

11884. Ordering defendant into custody or increasing bail when indictment is for felony. When the information is for a felony, and the defendant before the filing thereof, has given bail for his appearance to answer the charge, the court to which the information is presented, or in which it is pending, may order the defendant to be committed to actual custody, unless he gives bail in an increased amount, to be specified in the order.

History: En. Sec. 1889, Pen. C. 1895; re-en. Sec. 9186, Rev. C. 1907. Cal. Pen. C. Sec. 985.

11885. Defendant, if present when order made, to be committed; if not, warrant to issue. If the defendant is present when the order is made, he must be forthwith committed. If he is not present, a warrant must be issued and proceeded upon in the manner provided in this chapter.

History: En. Sec. 1890, Pen. C. 1895; re-en. Sec. 9187, Rev. C. 1907. Cal. Pen. C. Sec. 986.

11886. Right to counsel on arraignment. If the defendant appear for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel. If he desires and is unable to employ counsel, the court must assign counsel to defend him.

History: Ap. p. Sec. 196, p. 220, Cod. Stat. 1887; en. Sec. 1891, Pen. C. 1895; Stat. 1871; re-en. Sec. 196, 3d Div. Rev. re-en. Sec. 9188, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 196, 3d Div. Comp. Sec. 987.

11887. Compensation of attorney for accused. Whenever, in a criminal action or proceeding in the district court, an attorney-at-law defends a person charged with any offense, by order of the court, on the ground that the accused is unable to procure or employ counsel, the county in which such criminal action or proceeding may have arisen is liable to pay such attorney for his services such sum as the judge certifies to be a reasonable compensation therefor, not to exceed, in any capital case, the sum of one hundred dollars; in other cases of felony a sum not exceeding fifty dollars; and in all other cases a sum not exceeding twenty-five dollars.

History: En. Sec. 1, p. 12, L. 1881; re-en. Sec. 197, 3d Div. Comp. Stat. 1887; amd. Sec. 1892, Pen. C. 1895; amd. Sec. 1, Ch. 33, L. 1903; re-en. Sec. 9189, Rev. C. 1907. Cited or applied as section 9189, Revised Codes, in State ex rel. McGrade v. District Court, 52 Mont. 371, 376, 157 Pac. 1157.

11888. Arraignment, how made. The arraignment must be made by the court, or by the clerk or county attorney under its direction, and consists in reading the indictment or information to the defendant and delivering to him a copy thereof, and of the indorsements thereon, including the list of

witnesses, and asking him whether he pleads guilty or not guilty to the indictment or information.

History: En. Sec. 1893, Pen. C. 1895; re-en. Sec. 9190, Rev. C. 1907. Cal. Pen. C. Sec. 988.

The "copy" of the information required to be delivered to the defendant by this section means a true copy, and there can be no arraignment unless such true copy is furnished. *State v. De Wolfe*, 29 Mont. 415, 418, 74 Pac. 1084.

It would appear from this section that the indorsements on the information are not considered part of the information. *State v. De Lea*, 36 Mont. 531, 533, 93 Pac. 814.

Cited or applied as section 1893, Penal Code, in *State v. Broadbent*, 19 Mont. 467, 469, 48 Pac. 775.

11889. Proceedings on arraignment, when defendant is not indicted by his true name. When the defendant is arraigned, he must be informed that if the name by which he is prosecuted is not his true name, he must then declare his true name, or be proceeded against by the name in the indictment or information. If he gives no other name, the court may proceed accordingly; but if he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the information or indictment may be had against him by that name, referring also to the name by which he was first charged therein.

History: En. Secs. 200-202, p. 221, Cod. Stat. 1871; re-en. Secs. 200-202, 3d Div. Rev. Stat. 1879; re-en. Secs. 201-203, 3d Div. Comp. Stat. 1887; amd. Sec. 1894, Pen. C. 1895; re-en. Sec. 9191, Rev. C. 1907. Cal. Pen. C. Sec. 989.

11890. Time allowed, and how defendant may answer on arraignment. If, on the arraignment, the defendant requires it, he must be allowed a reasonable time, not less than one day, to answer the indictment or information. He may, in his answer to the arraignment, move to set aside, demur, or plead to the indictment or information.

History: En. Secs. 203, 204, p. 221, Cod. Stat. 1871; re-en. Secs. 203, 204, 3d Div. Rev. Stat. 1879; re-en. Secs. 204, 205, 3d Div. Comp. Stat. 1887; amd. Sec. 1895, Pen. C. 1895; re-en. Sec. 9192, Rev. C. 1907. Cal. Pen. C. Sec. 990.

Where defendant, in a prosecution for grand larceny, raised the objection that the copy of the information furnished him

was materially different from the information on which he was about to be tried, which objection the court sustained, and required defendant to be furnished with a true copy, as required by section 11888, a refusal of the request constitutes reversible error under this section; the record showing that no plea was entered at the trial. *State v. De Wolfe*, 29 Mont. 415, 418, 74 Pac. 1084.

CHAPTER 19.

SETTING ASIDE THE INDICTMENT OR INFORMATION.

- Section 11891. Indictment, When Set Aside on Motion.
 11892. Defendant Waives Objections, Unless He Makes the Motion.
 11893. Motion, When Heard—If Denied or Granted, What Proceedings Are to Be Had.
 11894. Effect of Order for Resubmission.
 11895. Order no Bar to Another Prosecution.

11891. Indictment, when set aside on motion. The indictment or information must be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases: If it be an indictment—

1. Where it is not found, indorsed, and presented as prescribed in this code;
2. When the names of the witnesses examined before the grand jury are not inserted at the foot of the indictment or indorsed thereon;
3. When a person is permitted to be present during the session of the grand jury, and when the charge embraced in the indictment is under consideration, except as provided in section 11829;
4. That the names of the witnesses for the state are not indorsed thereon;
5. On any ground which would have been good ground for challenge, either to the panel or to any individual grand juror.

If it be on information—

1. That leave to file the same had not been granted by the court;
2. That before the filing thereof the defendant had not been legally committed by a magistrate;
3. That it was not subscribed by the county attorney, or attorney prosecuting.

History: Ap. p. Sec. 205, p. 221, Cod. Stat. 1871; re-en. Sec. 205, 3d Div. Rev. Stat. 1879; re-en. Sec. 206, 3d Div. Comp. Stat. 1887; en. Sec. 1910, Pen. C. 1895; re-en. Sec. 9193, Rev. C. 1907. Cal. Pen. C. Sec. 995.

When an information has been filed without leave of court and before the examination and commitment of the defendant, an appropriate remedy is by motion to quash, upon the ground that the information was not presented as prescribed by law. *State v. McCaffery*, 16 Mont. 33, 37, 40 Pac. 63.

This section must be construed, not as prescribing one indispensable method of procedure, and but one only, but as pertaining to the two constitutional methods of procedure where an information is filed, either one of which is indispensable, yet either of which is correct, as the conditions and facts of the case may warrant. *State v. Bowser*, 21 Mont. 133, 136, 53 Pac. 179.

11892. Defendant waives objections, unless he makes the motion. The motion to set aside the indictment or information must be in writing, subscribed by the defendant, or his attorney, and must specify clearly the ground of objection to the indictment or information, and such motion must be made before the defendant demurs or pleads, or the grounds of the objection are waived.

History: En. Sec. 207, p. 221, Cod. Stat. 1871; re-en. Sec. 207, 3d Div. Rev. Stat. 1879; re-en. Sec. 208, 3d Div. Comp. Stat. 1887; amd. Sec. 1911, Pen. C. 1895; re-en. Sec. 9194, Rev. C. 1907. Cal. Pen. C. Sec. 996.

If a defendant, on a second trial, does not ask to withdraw the plea of not guilty, interposed at the first trial, and have another and different plea substituted, it is a waiver of any grounds of objection to the information which might have been properly raised by motion to quash. *State*

The right of the attorney-general to be present before the grand jury is not affected by this section. *State ex rel. Nolan v. District Court*, 22 Mont. 25, 31, 55 Pac. 916.

The motion must be in writing, subscribed by the defendant or his counsel, and must specify the particular ground of objection. *State v. Chevigny*, 48 Mont. 382, 384, 138 Pac. 257.

Cited or applied as section 205, Third Division Revised Statutes 1879, in *Territory v. Harding*, 6 Mont. 323, 12 Pac. 750; as section 206, Third Division Compiled Statutes 1887, in *State v. Smith*, 12 Mont. 378, 30 Pac. 679; as section 1910, Penal Code, in *State v. Calder*, 23 Mont. 504, 506, 59 Pac. 903; *State v. Schnepel*, 23 Mont. 523, 528, 59 Pac. 927; *State v. Peterson*, 24 Mont. 81, 85, 60 Pac. 809.

Power of court on own motion to set aside and order resubmission, see note in Ann. Cas. 1918A, 860.

v. McCaffery, 16 Mont. 33, 37, 40 Pac. 63.

An omission to make a motion to set aside an information in the manner prescribed by this section on the ground that it had not been subscribed by the county attorney constitutes a waiver by the defendant of the objection to the action of the court in permitting the information to be subscribed before demurrer or plea. *State v. Peterson*, 24 Mont. 81, 85, 60 Pac. 809.

The defendant, in a criminal case, may insist that the provisions of sections 11801,

11803 and 11891 be observed, as they are all mandatory, but he need not do so. If he does not, the court is authorized and required by this section to proceed upon the assumption that all antecedent requirements have been observed. *State v. Chevigny*, 48 Mont. 382, 384, 138 Pac. 257.

By entering his plea without a written motion to set aside the information, and consenting to go to trial, defendant waived

his right to question the propriety of proceedings prior to the filing of the information. *State v. Vinn*, 50 Mont. 27, 32, 144 Pac. 773.

Cited or applied as section 208, Third Division Compiled Statutes 1887, in *State v. Smith*, 12 Mont. 378, 30 Pac. 679, as section 1911, Penal Code, in *State v. Schnepel*, 23 Mont. 523, 528, 59 Pac. 927.

11893. Motion, when heard—If denied or granted, what proceedings are to be had. The motion must be heard at the time it is made, unless, for cause, the court postpones the hearing to another time. If the motion is denied, the defendant must immediately answer the indictment or information, either by demurring or pleading thereto. If the motion is granted, the court must order that the defendant, if in custody, be discharged therefrom, or, if admitted to bail, that his bail be exonerated, or, if he has deposited money instead of bail, that the same be refunded to him, unless it directs that the case be resubmitted to the same or another grand jury, or that another or amended information be filed by the county attorney.

History: Ap. p. Secs. 208, 209, p. 221, Cod. Stat. 1871; re-en. Secs. 208, 209, 3d Div. Rev. Stat. 1879; re-en. Secs. 209, 210,

3d Div. Comp. Stat. 1887; en. Sec. 1912, Pen. C. 1895; re-en. Sec. 9195, Rev. C. 1907. Cal. Pen. C. Sec. 997.

11894. Effect of order for resubmission. If the court directs the case to be resubmitted, or another or amended information be filed, the defendant, if already in custody, must so remain, unless he is admitted to bail; or, if already admitted to bail, or money has been deposited instead therefor, the bail or money is to be answerable for the appearance of the defendant to answer a new indictment or information; and, unless a new indictment is found by the same or another grand jury, or another or an amended information filed within thirty days from the date of the order, the court must make the order discharging the defendant, as prescribed by the preceding section.

History: Ap. p. Sec. 210, p. 222, Cod. Stat. 1871; re-en. Sec. 210, 3d Div. Rev. Stat. 1879; re-en. Sec. 211, 3d Div. Comp.

Stat. 1887; en. Sec. 1913, Pen. C. 1895; re-en. Sec. 9196, Rev. C. 1907. Cal. Pen. C. Sec. 998.

11895. Order no bar to another prosecution. An order to set aside an indictment or information, as provided in this chapter, is no bar to a future prosecution for the same offense.

History: En. Sec. 1914, Pen. C. 1895; re-en. Sec. 9197, Rev. C. 1907. Cal. Pen. C. Sec. 999.

CHAPTER 20.

DEMURRER.

- Section 11896. Pleading on Part of Defendant.
 11897. Demurrer or Plea, When Put In.
 11898. Grounds of Demurrer.
 11899. Demurrer, How Put in and Its Form.
 11900. When Heard.
 11901. Judgment on Demurrer.
 11902. If Allowed, Bar to Another Prosecution, When.
 11903. If Resubmission Not Ordered, Defendant Discharged, etc.
 11904. Proceedings, If Resubmission Ordered.
 11905. Proceedings, If Demurrer Is Disallowed.
 11906. Objections, Forming Ground of Demurrer, When Taken.

11896. Pleading on part of defendant. The only pleading on the part of the defendant is either a demurrer or a plea.

History: En. Sec. 1920, Pen. C. 1895; re-en. Sec. 9198, Rev. C. 1907. Cal. Pen. C. Sec. 1002.

11897. Demurrer on plea, when put in. Both the demurrer and plea must be put in, in open court, either at the time of the arraignment or at such other time as may be allowed to the defendant for that purpose.

History: En. Sec. 1921, Pen. C. 1895; re-en. Sec. 9199, Rev. C. 1907. Cal. Pen. C. Sec. 1003.

11898. Grounds of demurrer. The defendant may demur to the indictment or information, when it appears upon the face thereof, either—

1. If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, by reason of its not being within the legal jurisdiction of the county; or, if an information, that the court has no jurisdiction of the offense charged therein;

2. That it does not substantially conform to the requirement of sections 11843, 11844 and 11845 of this code;

3. That more than one offense is charged;

4. That the facts stated do not constitute a public offense;

5. That it contains any matter, which if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

History: En. Sec. 211, p. 222, Cod. Stat. 1871; re-en. Sec. 211, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 73, L. 1885; re-en. Sec. 212, 3d Div. Comp. Stat. 1887; amd. Sec. 1922, Pen. C. 1895; re-en. Sec. 9200, Rev. C. 1907. Cal. Pen. C. Sec. 1004.

Where an information charges two offenses, the only method by which this fault can be taken advantage of is by demurrer interposed under subdivision 3 of this section. The failure to demur is a waiver of the objection. *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647. See, also, *State v. Rodgers*, 40 Mont. 248, 251, 106 Pac. 3.

Where defendant's objection that an information is bad, as charging more than one offense, under subdivision 3 of this section, is not taken in the trial court, it will not be considered for the first time on appeal. *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647.

An objection to an information on the grounds of duplicity is addressed to the jurisdiction of the court rather than to the form of the information and may be raised by an objection to the introduction of evidence and a motion to compel on election. *State v. Mjelde*, 29 Mont. 490, 75 Pac. 87.

A motion in arrest of judgment must be founded on some defect in the information mentioned in this section, and extrinsic evidence cannot be received on the hearing of such motion. *State v. Tully*, 31 Mont. 365, 371, 3 Ann. Cas. 824, 78 Pac. 760. See *State v. Van*, 44 Mont. 374, 383, 120 Pac. 479; *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

If a charge of crime is not direct and certain, it is open to attack on special demurrer. *State v. Pemberton*, 39 Mont. 530, 533, 104 Pac. 556.

Where an information for a misdemeanor was filed more than one year and ten months after the time of the alleged offense, and it contains an allegation that, on or about that time, the defendant left the state and afterwards resided without the state, the defendant, under subdivision 5 of this section, may properly demur to the information on the ground that it appears upon the face thereof that the prosecution is barred by the statute of limitations. *State v. Clemens*, 40 Mont. 567, 571, 107 Pac. 896.

A motion in arrest lies only for certain defects appearing on the face of the indictment or information, not waived by failure to demur. *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

Cited or applied as section 9200, Revised Codes, in *State v. Tudor*, 47 Mont. 185, 131 Pac. 632; *State v. Wehr*, 57 Mont. 469, 475, 188 Pac. 930.

Time and method of objecting to sufficiency of indictment, see note in 1 Ann. Cas. 479.

Time and method of objecting to indictment on ground of duplicity, see note in 10 Ann. Cas. 1004.

Manner and time of raising defense of former jeopardy, see note in L. R. A. 1917A, 1233.

11899. Demurrer, how put in and its form. The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of objection to the indictment or information, or it must be disregarded.

History: En. Sec. 212, p. 222, Cod. Stat. 1871; re-en. Sec. 212, 3d Div. Rev. Stat. 1879; re-en. Sec. 213, 3d Div. Comp. Stat. 1887; amd. Sec. 1923, Pen. C. 1895; re-en. Sec. 9201, Rev. C. 1907. Cal. Pen. C. Sec. 1005.

Cited or applied as section 9201, Revised Codes, in *State v. Tudor*, 47 Mont. 185, 131 Pac. 632.

11900. When heard. Upon the demurrer being filed, the argument upon the objections presented thereby must be heard, either immediately or at such time as the court may appoint.

History: En. Sec. 1924, Pen. C. 1895; re-en. Sec. 9202, Rev. C. 1907. Cal. Pen. C. Sec. 1006.

11901. Judgment on demurrer. Upon considering the demurrer, the court must give judgment, either allowing or disallowing it, and an order to that effect must be entered upon the minutes.

History: En. Sec. 1925, Pen. C. 1895; re-en. Sec. 9203, Rev. C. 1907. Cal. Pen. C. Sec. 1007.

Codes, in *State v. Gemmell*, 45 Mont. 210, 213, 122 Pac. 268; In *re Palm*, 52 Mont. 558, 160 Pac. 348; *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

Cited or applied as section 9203, Revised

11902. If allowed, bar to another prosecution, when. If the demurrer is allowed, the judgment is final upon the indictment or information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of the opinion that the objection on which the demurrer is allowed may be avoided in a new indictment, or another or an amended information, directs the case to be submitted to another grand jury, or directs another or an amended information to be filed.

History: En. Sec. 1926, Pen. C. 1895; re-en. Sec. 9204, Rev. C. 1907. Cal. Pen. C. Sec. 1008.

nical defect, irregularity, or insufficiency in the original information or indictment. *State v. Vinn*, 50 Mont. 27, 34, 144 Pac. 773; In *re Palm*, 52 Mont. 558, 560, 160 Pac. 348.

After dismissal of an indictment because of substantial defects therein, the district court may, but is not required to, submit the case to another grand jury, or permit, or order, the county attorney to file an information charging the defendant with the same offense ineffectually sought to be charged against him by the indictment. *State v. Vinn*, 50 Mont. 27, 33, 144 Pac. 773.

Where an information was dismissed on the motion of the county attorney because of the omission of a material allegation therefrom, and a new information ordered filed by the court that before making the order it entertained the opinion that the objection to the original information could be avoided in the new one—an entry which might properly have been made but was not required to be made by this section—was not sufficient ground for the release of the complainant from custody on habeas corpus. In *re Palm*, 52 Mont. 558, 160 Pac. 348.

This section is intended to safeguard the rights of the accused against an altogether unwarranted prosecution, or the possible malice of the prosecuting officer, but it is no intended to shield an offender against prosecution merely because of some tech-

11903. If resubmission not ordered, defendant discharged, etc. If the court does not permit the information to be amended, nor direct that another information be filed, or that the case be resubmitted, as provided in the preceding section, the defendant, if in custody, must be discharged, or if

admitted to bail, his bail is exonerated, or if he has deposited money instead of bail, the money must be refunded to him.

History: En. Sec. 1927, Pen. C. 1895; re-en. Sec. 9205, Rev. C. 1907. Cal. Pen. C. Sec. 1009.

11904. Proceedings, if resubmission ordered. If the court directs that the case be resubmitted, or that another or an amended information be filed, the same proceedings must be had thereon as are prescribed in sections 11893 and 11894.

History: En. Sec. 1928, Pen. C. 1895; re-en. Sec. 9206, Rev. C. 1907. Cal. Pen. C. Sec. 1010.

11905. Proceedings, if demurrer is disallowed. If the demurrer is disallowed, the defendant must plead forthwith, or at such time as the court may direct.

History: En. Sec. 215, p. 222, Cod. Stat. 1887; amd. Sec. 1929, Pen. C. 1895; re-en. 1871; re-en. Sec. 215, 3d Div. Rev. Stat. Sec. 9207, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 216, 3d Div. Comp. Stat. 1011.

11906. Objections, forming ground of demurrer, when taken. When the objections mentioned in section 11898 appear on the face of the indictment or information, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment or information, or that the facts stated do not constitute a public offense, may be taken at the trial, under the plea of not guilty, or after the trial, in arrest of judgment.

History: En. Sec. 216, p. 222, Cod. Stat. 1871; re-en. Sec. 216, 3d Div. Rev. Stat. 1879; re-en. Sec. 217, 3d Div. Comp. Stat. 1887; amd. Sec. 1930, Pen. C. 1895; re-en. Sec. 9208, Rev. C. 1907. Cal. Pen. C. Sec. 1012.

Defendant's failure to raise, by special demurrer, the question that an information charged two distinct offenses constituted a waiver of such objection. *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647; *State v. Rodgers*, 40 Mont. 248, 251, 106 Pac. 3.

Where an information is attacked in the trial court by motion in arrest of judgment, all questions arising upon alleged defects in the information, except that of want of jurisdiction and the sufficiency of the facts to state a public offense, are waived. *State v. Pemberton*, 39 Mont. 530, 533, 104 Pac. 556.

Where an accused person pleads to an information, without interposing the objection, by motion, that, having already been prosecuted by indictment, he cannot be prosecuted by information, that objection is waived. *State v. Vinn*, 50 Mont. 27, 33, 144 Pac. 773.

Where an information charges two distinct offenses, the remedy is not by motion to compel the county attorney to elect,

as between the two offenses charged, the one upon which he will seek conviction; the objection can only be taken by demurrer; and the objection, so far as any question of pleading is concerned, is waived by pleading over and failing to demur. *State v. Kanakaris*, 54 Mont. 180, 182, 169 Pac. 42.

The objection that the information does not state facts constituting a public offense is not waived by failure to demur, but may be raised by motion in arrest of judgment. *State v. Wehr*, 57 Mont. 469, 188 Pac. 930.

The objection that the facts stated in an information do not constitute a public offense may be taken either by demurrer or at the trial, under a plea of not guilty, or after the trial, in arrest of judgment. *State v. Smith*, 58 Mont. 567, 570, 194 Pac. 131.

Cited or applied as section 1930, Penal Code, *State v. Mjelde*, 29 Mont. 490, 75 Pac. 87; *State v. Gordon*, 35 Mont. 458, 463, 90 Pac. 173; as section 9208, Revised Codes, in *State v. Rodgers*, 40 Mont. 248, 251, 106 Pac. 3; *State v. Tudor*, 47 Mont. 185, 131 Pac. 632.

Raising objection of duplicity in indictment by motion in arrest of judgment, see note in 49 L. R. A. (N. S.) 456.

CHAPTER 21.

PLEAS.

- Section** 11907. The Different Kinds of Pleas.
 11908. Plea, How Put in and Its Form.
 11909. Plea of Guilty, How Put in and When Withdrawn.
 11910. What Plea of Not Guilty Puts in Issue.
 11911. What May Be Given in Evidence Under Plea of Not Guilty.
 11912. What Is Not a Former Acquittal.
 11913. What Is a Former Acquittal.
 11914. Conviction for a Higher Offense, Effect of.
 11915. Defendant Refusing to Answer, Plea of Not Guilty.

11907. The different kinds of pleas. There are four kinds of pleas to an indictment or information.

A plea of—

1. Guilty;
2. Not guilty;
3. A former judgment of conviction or acquittal of the offense charged, which may be pleaded either with or without the plea of not guilty;
4. Once in jeopardy.

History: Ap. p. Sec. 217, p. 222, Cod. Stat. 1871; re-en. Sec. 217, 3d Div. Rev. Stat. 1879; re-en. Sec. 218, 3d Div. Comp. Stat. 1887; en. Sec. 1940, Pen. C. 1895; re-en. Sec. 9209, Rev. C. 1907. Cal. Pen. C. Sec. 1016.

The plea of "once in jeopardy" includes the plea of former conviction or acquittal and a judgment of conviction or acquittal. *State v. Keerl*, 33 Mont. 501, 515, 85 Pac. 862.

In a criminal prosecution, there is only one jeopardy which continues in case of a discharge of the jury for disagreement, as also where a new trial is granted, from the beginning of the trial, after the swearing in of the first jury, until the particular

case is finally determined. *State v. Keerl*, 33 Mont. 501, 515, 85 Pac. 862.

The provisions of this section are not applicable in an action for death by wrongful act under section 9076, where a violation of the statute requiring the use of safety-cages in mines is charged. *Maronen v. Anaconda Copper Min. Co.*, 48 Mont. 249, 261, 136 Pac. 968.

Cited or applied as section 1940, Penal Code, in *State v. Gordon*, 35 Mont. 458, 464, 90 Pac. 173.

Validity and effect of conditional pleas of guilty, see note in Ann. Cas. 1914A, 451.

Right to plead over after plea of former conviction or acquittal, see note in 9 Ann. Cas. 130.

11908. Plea, how put in and its form. Every plea must be oral, and entered upon the minutes of the court in substantially the following form:

1. If the defendant plead guilty: "The defendant pleads that he is guilty of the offense charged."

2. If he plead not guilty: "The defendant pleads that he is not guilty of the offense charged."

3. If he plead a former conviction or acquittal: "The defendant pleads that he has already been convicted (or acquitted) of the offense charged by the judgment of the court of (naming it), rendered at (naming the place) on the day of"

4. If he plead once in jeopardy: "The defendant pleads that he has been once in jeopardy for the offense charged (specifying the time, place, and court)."

History: Ap. p. Sec. 218, p. 222, Cod. Stat. 1871; re-en. Sec. 218, 3d Div. Rev. Stat. 1879; re-en. Sec. 219, 3d Div. Comp. Stat. 1887; en. Sec. 1941, Pen. C. 1895; re-en. Sec. 9210, Rev. C. 1907. Cal. Pen. C. Sec. 1017.

Cited or applied as section 1941, Penal Code, in *State v. Keerl*, 33 Mont. 501, 514, 85 Pac. 862.

11909. Plea of guilty, how put in and when withdrawn. A plea of guilty can be put in by the defendant himself only in open court, unless upon indictment or information against a corporation or for a misdemeanor, in which case it may be put in by counsel. The court may, at any time before judgment, upon a plea of guilty, permit it to be withdrawn, and a plea of not guilty substituted.

History: En. Sec. 1942, Pen. C. 1895; re-en. Sec. 9211, Rev. C. 1907. Cal. Pen. C. Sec. 1018.

Right of defendant to withdraw plea of guilty, see notes in 8 Ann. Cas. 237; 16 Ann. Cas. 973; Ann. Cas. 1912D, 243.

11910. What plea of not guilty puts in issue. The plea of not guilty puts in issue every material allegation of the indictment or information.

History: En. Sec. 221, p. 223, Cod. Stat. 1871; re-en. Sec. 221, 3d Div. Rev. Stat. 1879; re-en. Sec. 222, 3d Div. Comp. Stat. 1887; amd. Sec. 1943, Pen. C. 1895; re-en. Sec. 9212, Rev. C. 1907. Cal. Pen. C. Sec. 1019.

charged in the information puts in issue allegations of prior convictions, as well as the other allegations therein contained, and there is no merit in the contention that defendant, never having pleaded to the charge of prior convictions, no issue was raised as to that allegation. State v. Gordon, 35 Mont. 458, 464, 90 Pac. 173.

The plea of not guilty of the offense

11911. What may be given in evidence under plea of not guilty. All matters of fact tending to establish a defense other than that specified in the third and fourth subdivisions of section 11907, may be given in evidence under the plea of not guilty.

History: En. Sec. 1944, Pen. C. 1895; re-en. Sec. 9213, Rev. C. 1907. Cal. Pen. C. Sec. 1020.

11912. What is not a former acquittal. If the defendant was formerly acquitted on the ground of variance between the indictment or information and the proof, or the indictment or information was dismissed upon an objection to its form or substance, or in order to hold the defendant for a higher offense, without a judgment of acquittal, it is not an acquittal of the same offense.

Related sections: 11581, 11583, 11612, 11719, 11907.

Sec. 9214, Rev. C. 1907. Cal. Pen. C. Sec. 1021.

History: En. Sec. 222, p. 223, Cod. Stat. 1871; re-en. Sec. 222, 3d Div. Rev. Stat. 1879; re-en. Sec. 223, 3d Div. Comp. Stat. 1887; amd. Sec. 1945, Pen. C. 1895; re-en.

Cited or applied as section 223, Third Division Compiled Statutes 1887, in State v. Sullivan, 9 Mont. 490, 24 Pac. 23.

11913. What is a former acquittal. Whenever the defendant is acquitted on the merits, he is acquitted of the same offense, notwithstanding any defects in form or substance in the indictment or information on which the trial was had.

History: En. Sec. 223, p. 223, Cod. Stat. 1871; re-en. Sec. 223, 3d Div. Rev. Stat. 1879; re-en. Sec. 224, 3d Div. Comp. Stat.

1887; amd. Sec. 1946, Pen. C. 1895; re-en. Sec. 9215, Rev. C. 1907. Cal. Pen. C. Sec. 1022.

11914. Conviction or acquittal for a higher offense, effect of. When the defendant is convicted or acquitted, or has been once placed in jeopardy upon an indictment or information, the conviction, acquittal, or jeopardy is a bar to another indictment or information for the offense charged in the former, or for an attempt to commit the same, or for an offense necessarily

included therein, of which he might have been convicted under that indictment or information.

History: En. Sec. 224, p. 223, Cod. Stat. 1871; re-en. Sec. 224, 3d Div. Rev. Stat. 1879; re-en. Sec. 225, 3d Div. Comp. Stat. 1887; amd. Sec. 1947, Pen. C. 1895; re-en. Sec. 9216, Rev. C. 1907. Cal. Pen. C. Sec. 1023.

Where an information charging rape was dismissed after commencement of trial but before verdict, and a new one filed fixing the time of the commission of the crime fifty days later, the defense of once in jeopardy was not available, since the offense charged in the second information was neither the same but a new and independent one, nor one "necessarily included"

in the first charge, within the meaning of this section. *State v. Gaimos*, 53 Mont. 118, 122, 162 Pac. 596.

The words "offense necessarily included," used in this section, mean a lower degree of the crime charged, or a minor offense of the same character, predicated on the same act or acts. *State v. Gaimos*, 53 Mont. 118, 122, 162 Pac. 596.

Cited or applied as section 1947, Penal Code, in *State v. Keerl*, 33 Mont. 501, 514, 85 Pac. 862.

Judgment of acquittal as *res judicata* in civil or penal action, see notes in 5 Ann. Cas. 78; 11 L. R. A. (N. S.) 653.

11915. Defendant refusing to answer, plea of not guilty. If the defendant refuse to answer the indictment or information by demurrer or plea, a plea of not guilty must be entered.

History: En. Sec. 135, p. 237 Bannack Stat.; re-en. Sec. 198, p. 220, Cod. Stat. 1871; re-en. Sec. 198, 3d Div. Rev. Stat. 1879; re-en. Sec. 199, 3d Div. Comp. Stat. 1887; amd. Sec. 1948, Pen. C. 1895; re-en. Sec. 9217, Rev. C. 1907. Cal. Pen. C. Sec. 1024.

Where the record discloses that the defendant refused to plead to any charge contained in the indictment, this section is sufficiently complied with by the action of the court in ordering a plea of "not guilty" to all charges contained in the indictment." *State v. Clancy*, 20 Mont. 498, 502, 52 Pac. 267.

CHAPTER 22.

CHANGE OF PLACE OF TRIAL.

Section	11916.	What Petition to Contain.
	11917.	Petition, How Supported.
	11918.	Application, When Made.
	11919.	Order of Court or Judge.
	11920.	Application on Part of State.
	11921.	When Change of Place of Trial Not Granted.
	11922.	Order of Removal, How Entered.
	11923.	Custody of Defendant.
	11924.	Trial.
	11925.	Order as to Witnesses.
	11926.	Failure of Duty by Clerk.
	11927.	Change of Place of Trial as to Other Defendants.

11916. What petition to contain. A defendant in an indictment or information may be awarded a change of place of trial upon his petition, on oath (or upon the oath of some credible person), setting forth that he has reason to believe that he will not receive a fair trial in the court in which such indictment or information may be pending, which petition shall state the facts upon which the same is based, for—

1. That the judge is interested or prejudiced; or,
2. Is of kin to or has been counsel for either party; or,
3. That the prosecuting witness or the county attorney has an undue influence over the minds of the people of the county where the indictment or information is pending; or,
4. That the people of the county are so prejudiced against the defendant that he cannot have a fair trial; or,

5. That it is impossible to obtain a jury in the county that has not formed an opinion, as to the guilt or innocence of the defendant, such as would disqualify them as jurors.

History: Ap. p. Sec. 145, p. 238, *Bannack Stat.*; re-en. Sec. 225, p. 223, *Cod. Stat.* 1871; re-en. Sec. 225, 3d Div. Rev. Stat. 1879; re-en. Sec. 226, 3d Div. Comp. Stat. 1887; en. Sec. 1970, Pen. C. 1895; re-en. Sec. 9219, Rev. C. 1907. Cal. Pen. C. Sec. 1033.

In the expression "place of trial," the word "place" primarily means county, and not the immediate place where the trial

court sits. In this connection it is equivalent to neighborhood or place of a crime, or a cause of action, or the political division within which a jury must be gathered for the trial, and is synonymous with the word "venue." *State ex rel. Sackett v. Thomas*, 25 Mont. 226, 237, 64 Pac. 503.

Cited or applied as section 1970, Penal Code, in *State ex rel. B. & M. Co. v. Judges*, 30 Mont. 193, 198, 76 Pac. 10.

11917. Petition, how supported. The petition may be supported either by affidavits or oral testimony.

History: En. Sec. 1971, Pen. C. 1895; re-en. Sec. 9220, Rev. C. 1907. Cal. Pen. C. Sec. 1034.

11918. Application, when made. A defendant may apply to the court or to a judge in vacation for a change of place of trial, upon reasonable notice to the county attorney.

History: En. Sec. 1972, Pen. C. 1895; re-en. Sec. 9221, Rev. C. 1907. Cal. Pen. C. Sec. 1034.

11919. Order of court or judge. The court or judge, being satisfied that good cause exists therefor, may award a change of place of trial to some county where the causes complained of do not exist. But there shall be but one change of place of trial.

History: En. Sec. 1973, Pen. C. 1895; re-en. Sec. 9222, Rev. C. 1907. Cal. Pen. C. Sec. 1035.

11920. Application on part of state. The state may have a change of place of trial for any of the causes for which the defendant may obtain the same. The petition therefor must be made by the county attorney, or attorney prosecuting, to the court or judge, supported by affidavits or oral testimony.

History: Ap. p. Secs. 227, 228, p. 224, *Cod. Stat.* 1871; re-en. Secs. 227, 228, 3d Div. Rev. Stat. 1879; re-en. Secs. 228, 229, 3d Div. Comp. Stat. 1887; en. Sec. 1974, Pen. C. 1895; re-en. Sec. 9223, Rev. C. 1907.

Constitutionality of laws providing for

change of venue on application of state, or on court's own motion, see note in 3 Ann. Cas. 197.

Change of venue on application of state as matter of right or of discretion, see note in 21 Ann. Cas. 1203.

11921. When change of place of trial not granted. Change of place of trial must not be granted after the first term or session at which the party applying for the same might have been heard, unless the cause shall have arisen subsequent to such term or session. If one or more trials be had, and a new trial is necessary, either by reason of the discharge of a jury without a verdict, or of the granting of a new trial, the removal may be allowed at any time before the new trial.

History: Ap. p. Sec. 229, p. 224, *Cod. Stat.* 1871; re-en. Sec. 229, 3d Div. Rev. Stat. 1879; re-en. Sec. 230, 3d Div. Comp. Stat. 1887; en. Sec. 1975, Pen. C. 1895; re-en. Sec. 9224, Rev. C. 1907.

11922. Order of removal, how entered. The order of removal, whether made by the court or judge, must be entered upon the minutes, and the

clerk must immediately make out and transmit to the court to which the action is removed, a certified copy of the order of removal, and of the record, pleadings and proceedings in the action, including the undertaking for the appearance of the defendant and of the witnesses.

History: En. Sec. 1976, Pen. C. 1895; re-en. Sec. 9225, Rev. C. 1907. Cal. Pen. C. Sec. 1036.

11923. Custody of defendant. If the defendant is in custody, the order must direct his removal, and he must be forthwith removed by the sheriff of the county where he is imprisoned to the custody of the sheriff of the county to which the action is removed.

History: Ap. p. Sec. 146, p. 239, Bannack Stat.; re-en. Sec. 226, p. 224, Cod. Stat. 1887; en. Sec. 1977, Pen. C. 1895; re-en. Sec. 9226 Rev. C. 1907. Cal. Pen. C. Sec. 1037.
Stat. 1871; re-en. Sec. 226, 3d Div. Rev. Stat. 1879; re-en. Sec. 227, 3d Div. Comp.

11924. Trial. The court to which the action is removed must proceed to trial and judgment therein as if the action had been commenced in such court. If it is necessary to have any of the original pleadings or other papers before such court, the court from which the action is removed must at any time, upon application of the county attorney or of the defendant, order such papers or pleadings to be transmitted by the clerk, a certified copy thereof being retained.

History: En. Sec. 1978, Pen. C. 1895; re-en. Sec. 9227, Rev. C. 1907. Cal. Pen. C. Sec. 1038.

11925. Order as to witnesses. If the order of removal is made at a term or session of the court it is notice to every person who has entered into an undertaking to appear at such term or session. In other cases the witnesses must be subpoenaed as provided in this code.

History: En. Sec. 151, p. 240, Bannack Stat.; re-en. Sec. 233, p. 225, Cod. Stat. 1887; amd. Sec. 1979, Pen. C. 1895; re-en. 1871; re-en. Sec. 233, 3d Div. Rev. Stat. 1879; re-en. Sec. 234, 3d Div. Comp. Stat. 1887; amd. Sec. 1979, Pen. C. 1895; re-en. Sec. 9228, Rev. C. 1907.

11926. Failure of duty by clerk. If the clerk of the district court neglects or refuses to perform any duty in relation to the removal of a cause, he forfeits a sum not exceeding five hundred dollars, to be recovered by an action in the name of and for the use of the state or the person injured.

History: En. Sec. 152, p. 240, Bannack Stat.; re-en. Sec. 234, p. 225, Cod. Stat. 1887; amd. Sec. 1980, Pen. C. 1895; re-en. 1871; re-en. Sec. 234, 3d Div. Rev. Stat. 1879; re-en. Sec. 235, 3d Div. Comp. Stat. 1887; amd. Sec. 1980, Pen. C. 1895; re-en. Sec. 9229, Rev. C. 1907.

11927. Change of place of trial as to other defendants. If there are several defendants in an indictment or information, and the place of trial is changed as to one or more of them, and not as to the others, the others must be tried as if the place of trial had not been changed as to any defendant.

History: En. Sec. 153, p. 240, Bannack Stat.; re-en. Sec. 235, p. 225, Cod. Stat. 1887; amd. Sec. 1981, Pen. C. 1895; re-en. 1871; re-en. Sec. 235, 3d Div. Rev. Stat. 1879; re-en. Sec. 236, 3d Div. Comp. Stat. 1887; amd. Sec. 1981, Pen. C. 1895; re-en. Sec. 9230, Rev. C. 1907.
Cited or applied as section 1981, Penal Code, in State ex rel. B. & M. Co. v. Judges, 30 Mont. 193, 198, 76 Pac. 10.

CHAPTER 23.

MODE OF TRIAL—FORMATION OF JURY AND CALENDAR OF ISSUES—
POSTPONEMENT OF TRIAL.

- Section 11928. Issue of Fact Defined.
 11929. How Tried.
 11930. Information or Indictment Against a Judge.
 11931. When Presence of Defendant Is Necessary on the Trial.
 11932. Formation of Trial Jury.
 11933. Clerk to Prepare a Calendar.
 11934. Order of Disposing of Issues on the Calendar.
 11935. Defendant Entitled to Two Days to Prepare for Trial.
 11936. Notice and Affidavits for Postponement.
 11937. Postponement for Cause.
 11938. State May Have Continuance.
 11939. Effect of Failure to Apply.
 11940. Case Set For Trial.

11928. Issue of fact defined. An issue of fact arises—

1. Upon a plea of not guilty;
2. Upon a plea of a former conviction or acquittal of the same offense;
3. Upon a plea of once in jeopardy.

History: En. Sec. 1990, Pen. C. 1895; cannot be determined without a finding
 re-en. Sec. 9231, Rev. C. 1907. Cal. Pen. by a jury. *State v. O'Brien*, 19 Mont. 6,
 C. Sec. 1041. 47 Pac. 103.

The pleas of former acquittal and once
 in jeopardy involve an issue of fact, and

Cited or applied as section 1990, Penal
 Code, in *State v. Keerl*, 33 Mont. 501, 514,
 85 Pac. 862.

11929. How tried. Issues of fact must be tried by jury, unless a trial by jury be waived in criminal cases not amounting to felony, by the consent of both parties expressed in open court and entered in its minutes. In cases of misdemeanor the jury may consist of twelve, or any number less than twelve upon which the parties may agree in open court. In cases not amounting to a felony two-thirds in number of the jury may render a verdict.

History: En. Sec. 1991, Pen. C. 1895;
 re-en. Sec. 9232, Rev. C. 1907. Cal. Pen.
 C. Sec. 1042.

Cited or applied as section 9232, Revised
 Codes, in *State v. Hall*, 55 Mont. 182, 187,
 175 Pac. 267.

11930. Information or indictment against a judge. When an indictment is found, or an information filed in a district court against a judge thereof, a certificate of that fact must be transmitted by the clerk to the governor, who shall thereupon designate and direct a judge of the district court of another district to preside at the trial of such indictment or information, and hear and determine all pleas and motions affecting the defendant thereunder before and after judgment.

History: En. Sec. 1960, Pen. C. 1895; re-en. Sec. 9218, Rev. C. 1907. Cal. Pen. C. Sec. 1029.

11931. When presence of defendant is necessary on the trial. The defendant must be personally present at the trial; but if for misdemeanor, the trial may be had in the absence of the defendant; if his presence is necessary for any purpose, the court may, upon application of the county attorney, by an order or warrant, require the personal attendance of the defendant at the trial.

Related section: 12316.

History: En. Sec. 165, p. 242, Bannack

Stat.; re-en. Sec. 291, p. 235, Cod. Stat.
 1871; re-en. Sec. 291, 3d Div. Rev. Stat.

1879; re-en. Sec. 292, 3d Div. Comp. Stat. 1887; amd. Sec. 1992, Pen. C. 1895; re-en. Sec. 9233, Rev. C. 1907. Cal. Pen. C. Sec. 1043.

The settlement of instructions being no part of the "trial," within the meaning of this section, the absence of one charged

with felony during such settlement does not constitute reversible error. State v. Hall, 55 Mont. 182, 187, 175 Pac. 267.

Waiver by accused of right to be present at trial on felony charge, see notes in Ann. Cas. 1913C, 1146; Ann. Cas. 1918E, 375.

11932. Formation of trial jury. Trial juries for criminal actions are formed in the same manner as trial juries in civil actions.

History: Ap. p. Sec. 166, p. 243, Ban-nack Stat.; amd. Sec. 282, p. 234, Cod. Stat. 1871; re-en. Sec. 282, 3d Div. Rev. Stat. 1879; re-en. Sec. 283, 3d Div. Comp. Stat. 1887; re-en. Sec. 2000, Pen. C. 1895; re-en. Sec. 9234, Rev. C. 1907. Cal. Pen. C. Sec. 1046.

A jury panel in a criminal case must be drawn in substantial conformity with the requirements of the Code of Civil Procedure relating to trial juries in civil actions, and those requirements in their essential particulars are mandatory. State v. Landry, 29 Mont. 218, 223, 74 Pac. 418.

11933. Clerk to prepare a calendar. The clerk must keep a calendar of all criminal actions pending in the court, enumerating them according to the date of the filing of the indictment or information, specifying opposite the title of each action whether it is for felony or a misdemeanor, and whether the defendant is in custody or on bail.

History: En. Sec. 2001, Pen. C. 1895; re-en. Sec. 9235, Rev. C. 1907. Cal. Pen. C. Sec. 1047.

11934. Order of disposing of issues on the calendar. The issues on the calendar must be disposed of in the following order, unless for good cause the court shall direct an action to be tried out of its order:

1. Prosecutions for felony, when the defendant is in custody.
2. Prosecutions for misdemeanor, when the defendant is in custody.
3. Prosecutions for felony, when the defendant is on bail.
4. Prosecutions for misdemeanor, when the defendant is on bail.

History: En. Sec. 2002, Pen. C. 1895; re-en. Sec. 9236, Rev. C. 1907. Cal. Pen. C. Sec. 1048.

11935. Defendant entitled to two days to prepare for trial. After his plea, the defendant is entitled to at least two days to prepare for trial.

History: En. Sec. 274, p. 233, Cod. Stat. 1871; re-en. Sec. 274, 3d Div. Rev. Stat. 1879; re-en. Sec. 275, 3d Div. Comp. Stat. 1887; amd. Sec. 2003, Pen. C. 1895; re-en. Sec. 9237, Rev. C. 1907. Cal. Pen. C. Sec. 1049.

11936. Notice and affidavits for postponement. At the time the defendant makes his plea to an indictment or information he must notify the court of his desire for a postponement of the trial to some particular day, or for the term, and must file his affidavit, showing good cause therefor, within such time as the court may grant.

History: Sec. 9238, Rev. C. 1907. Cal. Pen. C. Sec. 1052.

Statutes 1879; re-enacted as sections 270 to 274, Third Division Compiled Statutes 1887; re-enacted as sections 2010 to 2014, Penal Codes 1895; re-enacted as sections 9238 to 9242, Revised Codes 1907.

Note.—Sections 11936 to 11940 were enacted as sections 269 to 273, pp. 232, 233, Codified Statutes 1871; re-enacted as sections 269 to 273, Third Division Revised

11937. Postponement for cause. For good cause shown the court may postpone the trial for any number of days or for the term. Any cause

which would be considered a good one for a postponement in a civil case, is sufficient in a criminal action.

History: Sec. 9239, Rev. C. 1907. See Prejudicial newspaper publication as also history of Sec. 11936. Cal. Pen. C. ground for continuance of prosecution, see Sec. 1052. note in Ann. Cas. 1918A, 449.

Cited or applied as section 270, p. 232, Codified Statutes 1871, in Territory v. Perkins, 2 Mont. 467.

11938. State may have continuance. The state may obtain a postponement for the same reasons, and must give the same notice therefor as the defendant, and be subject to the same restrictions; the county attorney, or any one acquainted with the facts, may make the proper affidavit.

History: Sec. 9240, Rev. C. 1907. See also history of Sec. 11936.

11939. Effect of failure to apply. If neither the defendant nor the state notify the court at the time the defendant pleads of a desire for a postponement, they shall not be entitled to make the application thereafter for any cause which existed at that time, and of which the party making the application had knowledge, or could have had knowledge; any application made after that time must be for cause which arose, or had come to the knowledge of the applicant, since the making of the plea.

History: Sec. 9241, Rev. C. 1907. See also history of Sec. 11936.

11940. Case set for trial. If the case is not postponed, it must be set down for trial on some certain day, in the order in which it appears on the calendar, unless by consent it is set down for trial out of its order.

History: Sec. 9242, Rev. C. 1907. Code, in State v. Mitchell, 17 Mont. 67, 75, 42 Pac. 100.
Cited or applied as section 2014, Penal

CHAPTER 24.

CHALLENGING THE JURY.

- Section 11941. Definition and Division of Challenges.
- 11942. Defendants Cannot Sever in Challenges.
- 11943. Panel Defined.
- 11944. Challenge to the Jury Defined.
- 11945. Upon What Founded.
- 11946. When and How Taken.
- 11947. Exception, if Sufficiency of the Challenge Be Denied.
- 11948. If Exception Overruled, Court May Allow Denial, etc.
- 11949. Denial of Challenge, How Made, and Trial Thereof.
- 11950. Proceedings, if Challenge Allowed.
- 11951. Kinds of Challenges to Individual Juror.
- 11952. Challenge, When Taken.
- 11953. Challenge After Jury Sworn.
- 11954. Peremptory Challenge, What, and How Taken.
- 11955. Number of Peremptory Challenges.
- 11956. Challenges of State.
- 11957. Definition and Kinds of Challenge, for Cause.
- 11958. General Causes of Challenge.
- 11959. Particular Causes of Challenge.
- 11960. Ground of Challenge for Implied Bias.
- 11961. Exemption Not a Ground of Challenge.
- 11962. Causes of Challenge, How Stated.
- 11963. Exceptions to Challenge and Denial Thereof.
- 11964. Challenge, How Tried.
- 11965. Juror Challenged May Be Examined as a Witness.
- 11966. Rules of Evidence on Trial of Challenge.
- 11967. Decision of Court to Be Entered.
- 11968. Challenges, How Taken.

11941. Definition and division of challenges. A challenge is an objection made to the trial jurors, and is of two kinds:

1. To the panel.
2. To an individual juror.

History: Ap. p. Sec. 283, p. 234, Cod. Stat. 1871; re-en. Sec. 283, 3d Div. Rev. Stat. 1879; re-en. Sec. 284, 3d Div. Comp.

Stat. 1887; en. Sec. 2030, Pen. C. 1895; re-en. Sec. 9243, Rev. C. 1907. Cal. Pen. C. Sec. 1055.

11942. Defendants cannot sever in challenges. When the several defendants are tried together, they cannot sever their challenges, but must join therein.

History: En. Sec. 2031, Pen. C. 1895; re-en. Sec. 9244, Rev. C. 1907. Cal. Pen. C. Sec. 1056.

Cited or applied as section 9244, Revised Codes, in *Mullery v. Great Northern Ry. Co.*, 50 Mont. 408, 416, 148 Pac. 323.

11943. Panel defined. The panel is a list of jurors returned by a sheriff to serve at a particular court, or for trial of a particular action.

History: En. Sec. 2032, Pen. C. 1895; re-en. Sec. 9245, Rev. C. 1907. Cal. Pen. C. Sec. 1057.

11944. Challenge to the jury defined. A challenge to the panel is an objection made to all the jurors returned, and may be taken by either party.

History: En. Sec. 2033, Pen. C. 1895; re-en. Sec. 9246, Rev. C. 1907. Cal. Pen. C. Sec. 1058.

11945. Upon what founded. A challenge to the panel can be founded only on a material departure from law in respect to the drawing and return of the jury as in civil actions, or on the intentional omission of the sheriff to summon one or more of the jurors drawn.

History: Ap. p. Sec. 284, p. 234, Cod. Stat. 1871; re-en. Sec. 284, 3d Div. Rev. Stat. 1879; re-en. Sec. 285, 3d Div. Comp. Stat. 1887; en. Sec. 2034, Pen. C. 1895; re-en. Sec. 9247, Rev. C. 1907. Cal. Pen. C. Sec. 1059.

A substantial compliance with the law is required in the work of procuring a jury. Anything less will vitiate such work. *State v. Tighe*, 27 Mont. 327, 331, 71 Pac. 3; *State v. Landry*, 29 Mont. 218, 224, 74 Pac. 418; *State v. Groom*, 49 Mont. 354, 358, 141 Pac. 858.

It is not every deviation from the strict letter of the law in drawing or returning a jury that will furnish ground for a challenge. The departure must be a material one. *State v. Tighe*, 27 Mont. 327, 331, 71 Pac. 3; *State v. Groom*, 49 Mont. 354, 359, 141 Pac. 858.

Evidence adduced on the trial of a challenge to the jury panel on the second ground of challenge specified in this section, the sheriff having testified that his omission to summon some of the jurors

was occasioned by his imperfect knowledge of county lines incident to the creation of a new county, held sufficient to warrant the court in sustaining the challenge. *State v. Groom*, 49 Mont. 354, 358, 141 Pac. 858.

Where defendant, charged with crime, interposed a challenge to the jury panel because the sheriff had intentionally omitted to summon some of the jurors drawn by the jury commission, to which the state took an exception, the court erred in overruling the challenge on the ground that defendant had failed to sustain the burden of establishing the truth of his assertion, since by its exception, which was in effect a demurrer, the facts stood admitted by the state, and no burden rested upon defendant. *State v. Groom*, 49 Mont. 354, 357, 141 Pac. 858.

Cited or applied as section 2034, Penal Code, in *State ex rel. Breen v. District Court*, 34 Mont. 107, 111, 85 Pac. 870.

Bias or misconduct of officer summoning jurors as ground for challenge to the panel, see note in *Ann. Cas.* 1916A, 693.

11946. When and how taken. A challenge to the panel must be taken before the jurors are sworn, and must be in writing or be noted by the

stenographer, and must plainly and distinctly state the facts constituting the ground of challenge.

History: Ap. p. Sec. 285, p. 234, Cod. Stat. 1871; re-en. Sec. 285, 3d Div. Rev. Stat. 1879; re-en. Sec. 286, 3d Div. Comp. Stat. 1887; en. Sec. 2035, Pen. C. 1895; re-en. Sec. 9248, Rev. C. 1907. Cal. Pen. C. Sec. 1060.

11947. Exception, if sufficiency of the challenge be denied. If the sufficiency of the facts alleged as ground of the challenge is denied, the adverse party may except to the challenge. The exception need not be in writing, but must be entered on the minutes of the court, or of the stenographer, and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true.

History: En. Sec. 2036, Pen. C. 1895; re-en. Sec. 9249, Rev. C. 1907. Cal. Pen. C. Sec. 1061.

In a criminal case, a demurrer to a challenge to the jury panel is equivalent to an exception to the challenge, the mere name not being important; and the action of the court in sustaining a demurrer to such challenge, and in impaneling the jury,

amounted to a disallowance of the challenge, so as to render the question raised by the challenge reviewable on appeal. State v. Tighe, 27 Mont. 327, 330, 71 Pac. 3.

An exception to the challenge to a jury panel in a criminal case is, in effect, a demurrer, and admits all the facts stated to be true. State v. Groom, 49 Mont. 354, 357, 141 Pac. 858.

11948. If exception overruled, court may allow denial, etc. If, on the exception, the court finds the challenge sufficient, it may, if justice requires it, permit the party excepting to withdraw his exception, and to deny the facts alleged in the challenge. If the exception is allowed, the court may, in like manner, permit an amendment of the challenge.

History: En. Sec. 2037, Pen. C. 1895; re-en. Sec. 9250, Rev. C. 1907. Cal. Pen. C. Sec. 1062.

Cited or applied as section 2037, Penal Code, in State v. Tighe, 27 Mont. 327, 330, 71 Pac. 3.

11949. Denial of challenge, how made, and trial thereof. If the challenge is denied, the denial may be oral, and must be entered on the minutes of the court, or of the stenographer, and the court must proceed to try the question of fact; and, upon such trial, the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of the challenge.

History: En. Sec. 2038, Pen. C. 1895; re-en. Sec. 9251, Rev. C. 1907. Cal. Pen. C. Sec. 1063.

Where defendant's offer to submit a challenge to the panel on the testimony taken at a prior term of court was withdrawn, and no evidence whatever was offered, defendant's request to discharge the jury was properly denied. State v. Jones, 32 Mont. 442, 449, 80 Pac. 1095.

Query, whether a judge of the district court may be called as a witness when the regularity of the drawing of a jury in a criminal prosecution is questioned by a challenge to the panel, inasmuch as he or

ders such drawing and directs the clerk during its progress, under section 8903, and, under this section, both judicial and minister-officers whose irregularity is complained of may be called upon to testify. State ex rel. Breen v. District Court, 34 Mont. 107, 111, 85 Pac. 870.

Where all parties treat a challenge to the panel as raising an issue of fact under this section, the supreme court will treat the matter as though an issue had been raised by a denial of the challenge. State v. Groom, 49 Mont. 354, 357, 141 Pac. 858.

Cited or applied as section 2038, Penal Code, in State v. Tighe, 27 Mont. 327, 330, 71 Pac. 3.

11950. Proceedings, if challenge allowed. If, either upon an exception to the challenge or a denial of the facts, the challenge is allowed, the court

must discharge the jury, so far as the trial in question is concerned. If it is disallowed, the court must direct the jury to be impaneled.

History: En. Sec. 2039, Pen. C. 1895; Cited or applied as section 2039, Penal re-en. Sec. 9252, Rev. C. 1907. Cal. Pen. Code, in *State v. Tighe*, 27 Mont. 327, 330, C. Sec. 1065. 71 Pac. 3.

11951. Kinds of challenges to individual juror. A challenge to an individual juror is either—

1. Peremptory, or,
2. For cause.

History: En. Sec. 2040, Pen. C. 1895; re-en. Sec. 9253, Rev. C. 1907. Cal. Pen. C. Sec. 1067.

11952. Challenge, when taken. All challenges must be interposed before the jury is sworn, unless the cause of challenge be discovered after the jury is sworn and before the introduction of any evidence, when the court, in its discretion, may allow the challenge to be interposed.

History: En. Sec. 2041, Pen. C. 1895; Time of exercise of right of peremptory re-en. Sec. 9254, Rev. C. 1907. Cal. Pen. challenge, see note in 19 Ann. Cas. 766. C. Sec. 1068.

11953. Challenge after jury sworn. Whenever a juror is excused from the jury, after it is sworn, upon challenge of either party, the panel must be filled in the same manner as before the swearing of the jury.

History: En. Sec. 2042, Pen. C. 1895; re-en. Sec. 9255, Rev. C. 1907.

11954. Peremptory challenge, what, and how taken. A peremptory challenge can be taken by either party, and may be oral. It is an objection to a juror for which no reason need be given, but upon which the court must exclude him.

History: En. Sec. 2043, Pen. C. 1895; re-en. Sec. 9256, Rev. C. 1907. Cal. Pen. C. Sec. 1069.

11955. Number of peremptory challenges. The defendant is entitled to a peremptory challenge of jurors in the following cases, and to the number as follows:

1. If the offense charged be punishable with death, or by imprisonment for life, challenges to the number of ten.
2. If the offense be punishable with imprisonment in the state prison not less than a specified number of years, and no limit to the duration of such imprisonment is declared, to the number of eight.
3. In any other case punishable with imprisonment in the state prison, to the number of six.
4. In all other cases, to the number of four.

Related sections 9343, 12317.

History: En. Sec. 156, p. 241, Bannack Stat.; re-en. Sec. 277, p. 233, Cod. Stat. 1871; re-en. Sec. 277, 3d Div. Rev. Stat. 1879; re-en. Sec. 278, 3d Div. Comp. Stat. 1887; amd. Sec. 2044, Pen. C. 1895; re-en. Sec. 9257, Rev. C. 1907. Cal. Pen. C. Sec. 1070.

In a prosecution for murder, the accused was properly compelled to exhaust alternately two peremptory challenges to each

one taken by the state, where none were taken until the panel was full. *State v. Sloan*, 22 Mont. 293, 298, 56 Pac. 364.

Defendant, on trial for grand larceny aggravated by a prior conviction of the same offense, was, under subdivision 2 of this section, entitled to eight—not six—peremptory challenges. *State v. Collins*, 53 Mont. 213, 163 Pac. 102.

Cited or applied as section 9257, Revised Codes, in *State v. Collins*, 53 Mont. 213, 163 Pac. 102.

Allowance of excessive number of peremptory challenges as ground for reversal, see note in 12 Ann. Cas. 371.

Right of joint defendants with respect

to peremptory challenges, see note in Ann. Cas. 1914A, 860.

Right of accused to full panel in making peremptory challenges, see note in L. R. A. 1916A, 153.

11956. Challenges of state. The state may challenge half the number of jurors allowed the defendant.

History: En. Sec. 157, p. 241, Bannack Stat.; re-en. Sec. 278, p. 233, Cod. Stat. 1871; re-en. Sec. 278, 3d Div. Rev. Stat. 1879; re-en. Sec. 279, 3d Div. Comp. Stat. 1887; amd. Sec. 2045, Pen. C. 1895; re-en. Sec. 9258, Rev. C. 1907.

Cited or applied as section 2045, Penal Code, in State v. Sloan, 22 Mont. 293, 298, 56 Pac. 364.

11957. Definition and kinds of challenge, for cause. A challenge for cause may be taken by either party. It is an objection to a particular juror, and is either—

1. General—That the juror is disqualified from serving in any case; or,
2. Particular—That the juror is disqualified from serving in the action on trial.

History: En. Sec. 2046, Pen. C. 1895; re-en. Sec. 9259, Rev. C. 1907. Cal. Pen. C. Sec. 1071.

shown no bias, either implied or actual, is not disqualified by reason of being a brother-in-law of the prosecuting attorney. State v. Cadotte, 17 Mont. 315, 316, 42 Pac. 857.

A juror who, upon examination, has

11958. General causes of challenge. General causes of challenge are—

1. A conviction for felony;
2. A want of any of the qualifications prescribed by law to render a person a competent juror;
3. Unsoundness of mind, or such defect in the faculties of the mind or organs of the body as renders him incapable of performing the duties of a juror.

History: En. Sec. 286, p. 234, Cod. Stat. 1871; re-en. Sec. 286, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 54, L. 1881; re-en.

Sec. 287, 3d Div. Comp. Stat. 1887; amd. Sec. 2047, Pen. C. 1895; re-en. Sec. 9260, Rev. C. 1907. Cal. Pen. C. Sec. 1072.

11959. Particular causes of challenge. Particular causes of challenge are of two kinds—

1. For such a bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.
2. For the existence of a state of mind on the part of the juror in reference to the case, or to either of the parties, which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party, which is known in this code as actual bias.

History: En. Sec. 2048, Pen. C. 1895; re-en. Sec. 9261, Rev. C. 1907. Cal. Pen. C. Sec. 1073.

After verdict, the accused must make it appear affirmatively that he is entitled to a new trial because he has been deprived of his constitutional right to an impartial jury, and the probability that one juror was incompetent is not sufficient to set aside the verdict. In the absence of a

clear showing of an abuse of discretion by the trial court in passing on a motion for a new trial, based on the alleged incompetency of a juror, the supreme court will not interfere. State v. Mott, 29 Mont. 292, 307, 74 Pac. 728.

A juror who testified on his voir dire examination that he entertained a bitter prejudice against the Industrial Workers of the World and against every member of it, which would abide with him throughout

the trial, that it would require evidence to remove the prejudice, and less evidence to convict defendant, who was a member of the organization, than if he were not a member, was not an impartial juror, and refusal to grant a challenge for cause was error. *State v. Brooks*, 57 Mont. 480, 188 Pac. 942.

Cited or applied as section 2048, Penal Code, in *State v. Cadotte*, 17 Mont. 315, 316, 42 Pac. 857.

Membership in or contribution to society for suppression of crime as disqualifying juror in criminal case, see notes in 9 Ann. Cas. 312; 17 Ann. Cas. 223.

11960. Ground of challenge for implied bias. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

1. Consanguinity or relationship to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, debtor and creditor, to, or being a member of, the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment.

3. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.

4. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information.

5. Having served on a trial jury which has tried another person for the offense charged.

6. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside or which was discharged without verdict, after the case was submitted to it.

7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror.

9. Having a belief that the punishment fixed by law is too severe for the offense charged.

History: En. Sec. 286, p. 234, Cod. Stat. 1871; re-en. Sec. 286, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 54, L. 1881; re-en.

Sec. 287, 3d Div. Comp. Stat. 1887; amd. Sec. 2049, Pen. C. 1895; re-en. Sec. 9262, Rev. C. 1907. Cal. Pen. C. Sec. 1074.

11961. Exemption not a ground of challenge. An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted.

History: En. Sec. 2050, Pen. C. 1895; re-en. Sec. 9263, Rev. C. 1907. Cal. Pen. C. Sec. 1075.

11962. Causes of challenge, how stated. In a challenge for implied bias, one or more of the causes stated in section 11960 must be alleged. In a challenge for actual bias, the cause stated in the second subdivision of section 11959 must be alleged; but no person shall be disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, provided it appear to the

court, upon his declaration, under oath or otherwise, that he can and will, notwithstanding such opinion, act impartially and fairly upon the matters to be submitted to him. The challenge may be oral, but must be entered in the minutes of the court or of the stenographer.

History: En. Sec. 2051, Pen. C. 1895; re-en. Sec. 9264, Rev. C. 1907. Cal. Pen. C. Sec. 1076.

This statute is constitutional. *Territory v. Bryson*, 9 Mont. 32, 39, 22 Pac. 147; *State v. Sheerin*, 12 Mont. 539, 541, 31 Pac. 543; *State v. Martin*, 29 Mont. 273, 277, 74 Pac. 725; *State v. Mott*, 29 Mont. 292, 306, 74 Pac. 728.

A juror who has formed and expressed an opinion on the case from reading newspaper statements and from hearsay, but who states that he does not know the defendant, has no prejudice, and, notwithstanding such opinion, can impartially try the case, is competent. *State v. Sheerin*, 12 Mont. 539, 541, 31 Pac. 543, 33 Am. St. Rep. 600.

Where a venireman in a criminal case stated on his voir dire that he had read the newspaper accounts of the alleged robbery, and had formed an opinion, but not a fixed one, and on re-examination he said he could entirely discard the opinion thus formed, and give the defendant as fair a trial as if he had never heard of the case, he was competent as a juror. *State v. Howard*, 30 Mont. 518, 523, 77 Pac. 50.

Cited or applied as section 9264, Revised Codes, in *Shane v. Butte Electric Ry. Co.*, 37 Mont. 599, 602, 97 Pac. 958; *State v. Brooks*, 57 Mont. 480, 488, 188 Pac. 942.

Opinions gained from newspapers as disqualifying juror in criminal case, see note in 35 L. R. A. (N. S.) 988.

11963. Exceptions to challenge and denial thereof. The adverse party may except to the challenge in the same manner as to a challenge to the panel, and the same proceedings must be had thereon as are prescribed in section 11947, except that if the exception be allowed, the juror must be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge.

History: En. Sec. 2052, Pen. C. 1895; re-en. Sec. 9265, Rev. C. 1907. Cal. Pen. C. Sec. 1077.

11964. Challenge, how tried. If the facts are denied, the challenge must be tried by the court.

History: En. Sec. 2053, Pen. C. 1895; re-en. Sec. 9266, Rev. C. 1907. Cal. Pen. C. Sec. 1078.

11965. Juror challenged may be examined as a witness. Upon the trial of a challenge to an individual juror the juror challenged may be examined as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry.

History: En. Sec. 2054, Pen. C. 1895; re-en. Sec. 9267, Rev. C. 1907. Cal. Pen. C. Sec. 1081.

11966. Rules of evidence on trial of challenge. Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues govern the admission or exclusion of evidence on the trial of the challenge.

History: En. Sec. 2055, Pen. C. 1895; re-en. Sec. 9268, Rev. C. 1907. Cal. Pen. C. Sec. 1082.

11967. Decision of court to be entered. The court must allow or disallow the challenge, and its decision must be entered in the minutes of the court.

History: En. Sec. 2056, Pen. C. 1895; re-en. Sec. 9269, Rev. C. 1907. Cal. Pen. C. Sec. 1083.

11968. Challenges, how taken. Challenges for cause and peremptory challenges must be taken in the manner provided in sections 9343, 9346, and 9347 of the Code of Civil Procedure.

History: En. Sec. 2057, Pen. C. 1895; re-en. Sec. 9270, Rev. C. 1907.

Where either party fails to challenge in his turn, he is deemed to waive the challenge or challenges he might use at that time, but this rule goes no further than is necessary to preserve the alternation required by the statute. *State v. Peel*, 23 Mont. 358, 362, 59 Pac. 169, 75 Am. St. Rep. 529. See, also, *Chenoweth v. Great Northern Ry. Co.*, 50 Mont. 481, 485, 148 Pac. 330.

Where the state waived its fourth per-

emptory challenge, and the defendant exhausted his peremptory challenges, it was not error, on the panel's being filled and passed for cause, to permit the state to peremptorily challenge a juror who was in the box when the state waived its fourth challenge; the state's waiver of its fourth challenge was not a waiver of any subsequent challenge to which it was entitled. *State v. Peel*, 23 Mont. 358, 363, 59 Pac. 169, 75 Am. St. Rep. 529.

Cited or applied as section 2057, Penal Code, in *State v. Sloan*, 22 Mont. 293, 298, 56 Pac. 364.

CHAPTER 25.

THE TRIAL.

- Section 11969.** Order of Trial.
11970. When Order of Trial May Be Departed From.
11971. Defendant Presumed Innocent—Reasonable Doubt.
11972. Reasonable Doubt as to Degree Convicts Only of Lowest.
11973. Separate Trials.
11974. Discharging Defendant That He May Be a Witness.
11975. Same.
11976. Effect of Such Discharge.
11977. Rules of Evidence in Civil Actions Applicable to Criminal Cases.
11978. Evidence on Trial for Treason.
11979. Evidence on Trial for Conspiracy.
11980. When Burden of Proof Shifts in Trial for Murder.
11981. All Witnesses Need Not Be Called.
11982. Evidence on a Trial for Bigamy.
11983. Evidence Upon a Trial for Forging Bank Bills, Etc.
11984. Evidence Upon Trial for Abortion and Seduction.
11985. Proof of Corporation by Reputation.
11986. Evidence on a Trial for Selling, etc., Lottery Tickets.
11987. Evidence of False Pretenses.
11988. Conviction on Testimony of Accomplice.
11989. Mistake in Indictment or Information.
11990. Discharge of Jury for Lack of Jurisdiction, etc.
11991. Proceedings, if Jury Discharged for Want of Jurisdiction of Offense Committed Out of the State.
11992. Proceedings in Such Case When Offense Committed in the State.
11993. Same.
11994. Proceedings, if Jury Discharged Because the Facts do Not Constitute an Offense.
11995. When Evidence on Either Side Is Closed, Court May Advise Jury to Acquit.
11996. View of Place of Offense or Property.
11997. Knowledge of Juror to Be Declared in Court, and He to Be Sworn as a Witness.
11998. Jurors, Separation of, During Trial.
11999. Jury at Each Adjournment, Must Be Admonished, etc.
12000. Juror Unable to Perform His Duties, Proceedings.
12001. Court to Decide Questions of Law Arising During Trial.
12002. Conviction or Acquittal.
12003. On Indictment for Libel, Jury to Determine Law and Fact.
12004. In All Other Cases Court to Decide Questions of Law.
12005. Jury May Decide in Court, or Retire in Custody of Officers.
12006. Defendant Appearing for Trial May Be Committed.
12007. If County Attorney Fails to Attend, Court May Appoint.
12008. Trials for Larceny.

11969. Order of trial. 1. The county attorney must state the case and offer evidence in support of the prosecution.

2. The defendant, or his counsel, may then state his defense and offer evidence in support thereof.

3. The parties may respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

4. When the evidence is concluded, if either party desires special instructions to be given to the jury, such instructions shall be reduced to writing and numbered by the party, or his attorney, and together with a written request asking the same, and signed by the party, or his attorney, delivered to the court. At all times prior to the charging the jury the instructions to be given shall be, without the presence of the jury, settled by the court, at which settlement counsel for the parties shall be allowed reasonable opportunity to examine the instructions requested and proposed to be given by the court, and to present and argue to the court objections and exceptions to the adoption or rejection of any instruction offered by counsel or proposed to be given to the jury by the court. On such settlement of the instructions the respective counsel, or the parties, shall specify and state the particular ground on which the instruction is objected or excepted to, and it shall not be sufficient in stating the ground of such objection or exception to state generally that the instruction does not state the law, or is against law, but such ground of objection or exception shall specify particularly wherein the instruction is insufficient, or does not state the law, or what particular clause therein is objected to. The court shall pass upon the objection to the instructions requested and also those proposed to be given by the court, and shall either give each instruction as requested or positively refuse to do so, or give the instruction requested with a modification, and shall mark or endorse upon each instruction offered and requested by the parties in such manner that it shall distinctly appear what instructions were given in whole or in part, and in like manner those refused or modified, and if modified, wherein the modification consisted. The court shall also give the instructions as originally proposed to be given by the court, or as modified, and all the instructions given by the court, together with those refused, must be filed as a part of the record of the cause.

The court stenographer shall be present at such settlement and shall take down all the objections and exceptions of the respective counsel to all or any of the instructions given or refused by the court together with the modifications made therein, and the ruling of the court thereon, and at the close of the trial such objections and exceptions taken during the settlement, together with the ruling of the court thereon, must be written out at length or printed in type by the stenographer and filed with the clerk forthwith, and thereafter such exceptions may be settled in a bill of exceptions as provided in section 12044 of this code.

No motion for new trial on the ground of errors in the instructions given shall be granted by the district court unless the error so assigned was specifically pointed out and excepted to at the settlement of the instructions, as herein provided; and no cause shall be reversed by the supreme court for any error in instructions which was not specifically pointed out and excepted to at the settlement of the instructions herein specified, and such error and

exception incorporated in and settled in the bill of exceptions, as herein provided.

5. When the instructions have been passed upon and settled by the court, and before the arguments of counsel to the jury have begun, the court shall charge the jury in writing, giving in such charge only such instructions as are passed upon and settled at such settlement. In charging the jury, the court shall give to them all matters of law which it thinks necessary for its information in rendering a verdict.

6. When the jury has been charged, unless the case is submitted to the jury, on either side, or on both sides, without argument, the plaintiff must commence and may conclude the argument. If several defendants, having several defenses, appear by different counsel, the court must determine their relative order in the evidence and argument. Counsel, in arguing the case to the jury, may argue and comment upon the law of the case, as given in the instructions of the court, as well as upon the evidence of the case.

History: En. Sec. 1, Ch. 82, L. 1907; Sec. 9271, Rev. C. 1907. Cal. Pen. C. Sec. 1093.

Note.—Earlier acts were section 306, p. 236, Codified Statutes 1871; re-enacted as section 306, Third Division Revised Statutes 1879; re-enacted as section 307, Third Division Compiled Statutes 1887; enacted as section 2070, Penal Code 1895; amended as section 1, p. 173, Laws of 1901.

It is well settled in this state that, if a party is not satisfied with an instruction proposed to be given, he must submit an instruction which more fully covers the particular matter, or he cannot be heard to complain, unless the instruction given be inherently wrong. *Territory v. Hart*, 7 Mont. 489, 505, 17 Pac. 718; *Territory v. Manton*, 8 Mont. 95, 109, 19 Pac. 387; *State v. Broadbent*, 19 Mont. 467, 473, 48 Pac. 775; *State v. Gordon*, 35 Mont. 458, 467, 90 Pac. 173; *State v. Tracey*, 35 Mont. 552, 555, 90 Pac. 791; *State v. Powell*, 54 Mont. 217, 221, 169 Pac. 46.

Mere silence of the accused or his counsel is not equivalent to a consent to the giving of oral instructions. *State v. Fisher*, 23 Mont. 540, 551, 59 Pac. 919.

A statute requiring written instructions in a criminal action is mandatory, and the violation thereof is reversible error. *State v. Fisher*, 23 Mont. 540, 552, 59 Pac. 919.

A charge is oral if not in writing at the time of its delivery, and read to the jury as written. *State v. Fisher*, 23 Mont. 540, 553, 59 Pac. 919.

Requested instructions are required to be signed merely for the purpose of identification, to be used by the court in making up its charge to the jury; it is an irregularity, but no reversible error, for the court to permit the name and official title of the county attorney to be placed on instructions requested by him and given to the jury. *State v. Martin*, 29 Mont. 273, 278, 74 Pac. 725.

Instructions in a prosecution for robbery, there being also allegations of prior convictions in another state, held not ground for reversal, though, perhaps, they were improper. *State v. Paisley*, 36 Mont. 237, 251, 92 Pac. 566.

Where the record in a criminal cause does not show that the court ruled, or was requested to rule, on defendant's requests for instructions, or his objections to those given, errors relating to them will not be considered on appeal, since error cannot be predicated on the mere silence of the court. *State v. McCarthy*, 36 Mont. 226, 236, 92 Pac. 521.

Where defendant fails to make objection to any portion of the charge or to any action of the trial court in its settlement during trial, he will not, on appeal, be heard to complain of error therein, or of any omission by the court to submit any special instruction. *State v. Stone*, 40 Mont. 88, 93, 105 Pac. 89.

Paragraph 4 of this section, prohibiting reversal by the supreme court for error in instructions where such error was not specifically pointed out and excepted to at the settlement of the instructions, and the error and exception incorporated and settled in a bill of exceptions, is mandatory, and error in instructions cannot be considered on appeal in a criminal case where the record does not contain a bill of exceptions. *State v. Cook*, 42 Mont. 329, 331, 112 Pac. 537.

The defendant, in a criminal case, is bound by instructions to which he does not object. *State v. Crean*, 43 Mont. 47, 60, 114 Pac. 603, Ann. Cas. 1912C, 424.

Errors in instructions must be specifically pointed out at the time the instructions are settled and the exceptions presented in a bill of exceptions before they will be considered on appeal. *State v. Thomas*, 46 Mont. 468, 128 Pac. 588.

In the absence of waiver by the parties, it is imperative that all instructions be

submitted to the jury in writing. *State v. Tudor*, 47 Mont. 185, 131 Pac. 632.

Under this section, to entitle appellant in a criminal action to a review of an instruction given, the record must disclose that at the time of settlement of the instructions he made suitable objection and reserved an exception thereto. *State v. Brodock*, 53 Mont. 463, 164 Pac. 658.

This section does not undertake to do more than prescribe an orderly procedure for the trial of criminal cases. *State v. Hall*, 55 Mont. 182, 185, 175 Pac. 267.

The provision of this section, requiring the county attorney to make an opening statement in a prosecution for crime, is merely directory. *State v. Hall*, 55 Mont. 182, 185, 175 Pac. 267.

Under the provisions of this section, errors in the instructions are not ground for reversal on appeal unless the same were

specifically pointed out and excepted to. *State v. Kahn*, 56 Mont. 108, 120, 182 Pac. 107.

Where the defendant failed to offer an instruction on circumstantial evidence, he is in no position to complain of the omission to instruct the jury on that point. *State v. Francis*, 58 Mont. 659, 670, 194 Pac. 304.

Cited or applied as section 2070, Penal Code, before amendment, in *State v. Gay*, 18 Mont. 51, 62, 44 Pac. 411; *State v. Lucey*, 24 Mont. 295, 305, 61 Pac. 994; as chapter 82, Laws of 1907, in *State v. McCarthy*, 36 Mont. 226, 236, 92 Pac. 521; as section 9271, Revised Codes, in *State v. Hall*, 45 Mont. 498, 516, 125 Pac. 639; *State v. Lewis*, 52 Mont. 495, 501, 159 Pac. 415; *State v. Smith*, 57 Mont. 349, 188 Pac. 644.

11970. When order of trial may be departed from. When the state of the pleadings requires it, or in any other case, for good reasons, and in the sound discretion of the court, the order prescribed in the last section may be departed from.

History: En. Sec. 2071, Pen. C. 1895; re-en. Sec. 9272, Rev. C. 1907. Cal. Pen. C. Sec. 1094.

Cited or applied as section 9272, Revised Codes, in *State v. Hall*, 55 Mont. 182, 185, 175 Pac. 267.

11971. Defendant presumed innocent—Reasonable doubt. A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal.

History: Ap. p. Sec. 186, p. 245, Ban-nack Stat.; re-en. Sec. 307, p. 237, Cod. Stat. 1871; re-en. Sec. 307, 3d Div. Rev. Stat. 1879; re-en. Sec. 308, 3d Div. Comp. Stat. 1887; en. Sec. 2072, Pen. C. 1895;

re-en. Sec. 9273, Rev. C. 1907. Cal. Pen. C. Sec. 1096.

Cited or applied as section 2072, Penal Code, in *State v. Martin*, 29 Mont. 273, 279, 74 Pac. 725.

11972. Reasonable doubt as to degree convicts only of lowest. When it appears that the defendant has committed a public offense, and there is reasonable ground of doubt in which of two or more degrees he is guilty, he can be convicted of the lowest of such degrees only.

History: En. Sec. 2073, Pen. C. 1895; re-en. Sec. 9274, Rev. C. 1907. Cal. Pen. C. Sec. 1097.

Note.—Earlier history same as that of preceding section.

11973. Separate trials. When two or more defendants are jointly charged with a felony, any defendant requiring it must be tried separately. In other cases the defendants jointly charged may be tried separately or jointly in the discretion of the court.

History: En. Sec. 301, p. 236, Cod. Stat. 1871; re-en. Sec. 301, 3d Div. Rev. Stat. 1879; re-en. Sec. 302, 3d Div. Comp. Stat. 1887; re-en. Sec. 2074, Pen. C. 1895; re-en. Sec. 9275, Rev. C. 1907. Cal. Pen. C. Sec. 1098.

At what time demand for separate trials may be made, see note in Ann. Cas. 1915B, 802.

Right of state to demand separate trial of persons jointly indicted, see note in Ann. Cas. 1914C, 402.

Order of trial of persons jointly indicted, after severance obtained, as within discretion of court, see note in Ann. Cas. 1914C, 326.

Cited or applied as section 302, Third Division Compiled Statutes 1887, in *State v. Davis*, 13 Mont. 384, 34 Pac. 182.

11974. Discharging defendant that he may be a witness. When two or more persons are included in the same charge, the court may, at any time, before the defendants have gone into their defense, on the application of the county attorney, direct any defendant to be discharged, that he may be a witness for the state.

History: En. Sec. 187, p. 245, Bannack Stat.; re-en. Sec. 308, p. 237, Cod. Stat. 1871; re-en. Sec. 308, 3d Div. Rev. Stat. 1879; re-en. Sec. 309, 3d Div. Comp. Stat. 1887; amd. Sec. 2075, Pen. C. 1895; re-en. Sec. 9276, Rev. C. 1907. Cal. Pen. C. Sec. 1099.

11975. Same. When two or more persons are included in the same indictment or information, and the court is of the opinion that in regard to a particular defendant there is not sufficient evidence to put him on his defense, it must order him to be discharged before the evidence is closed, that he may be a witness for his codefendant.

History: En. Sec. 2076, Pen. C. 1895; re-en. Sec. 9277, Rev. C. 1907. Cal. Pen. C. Sec. 1100. Note.—Earlier history same as that of preceding section.

11976. Effect of such discharge. The order mentioned in the last two sections is an acquittal of the defendant discharged, and is a bar to another prosecution for the same offense.

History: En. Sec. 2077, Pen. C. 1895; re-en. Sec. 9278, Rev. C. 1907. Cal. Pen. C. Sec. 1101. Note.—Earlier history same as that of preceding section.

11977. Rules of evidence in civil actions applicable to criminal cases. The rules of evidence in civil actions are applicable also to criminal actions, except as otherwise provided in this code.

History: En. Sec. 2078, Pen. C. 1895; re-en. Sec. 9279, Rev. C. 1907. Cal. Pen. C. Sec. 1102. 19 Mont. 564, 569, 49 Pac. 145; State v. Dotson, 26 Mont. 305, 309, 67 Pac. 938; Lane v. Bailey, 29 Mont. 548, 557, 75 Pac. 191.

Evidence of the act or declaration of a conspirator relating to the conspiracy may, after proof of the conspiracy, be given against his coconspirator. Territory v. Campbell, 9 Mont. 16, 20, 22 Pac. 121; State v. Byers, 16 Mont. 565, 567, 41 Pac. 708; Harrington v. B. & M. Co., 19 Mont. 411, 419, 48 Pac. 758; Pincus v. Reynolds, 19 Mont. 564, 569, 49 Pac. 145; State v. Dotson, 26 Mont. 305, 309, 67 Pac. 938; Lane v. Bailey, 29 Mont. 548, 557, 75 Pac. 191. Cited or applied as section 2078, Penal Code, in State v. O'Brien, 18 Mont. 1, 9, 43 Pac. 1091, 44 Pac. 399; State v. Schnepel, 23 Mont. 523, 526, 59 Pac. 927; State v. Dotson, 26 Mont. 305, 309, 67 Pac. 938; as section 9279, Revised Codes, in State v. Hall, 55 Mont. 182, 184, 175 Pac. 267.

11978. Evidence on trial for treason. Upon a trial for treason, the defendant cannot be convicted unless upon the testimony of two witnesses to the same overt act, or upon confession in open court; nor can evidence be admitted of an overt act not expressly charged in the indictment or information; nor can the defendant be convicted unless one or more overt acts be expressly alleged therein.

History: Ap. p. Sec. 169, p. 243, Bannack Stat.; re-en. Sec. 294, p. 235, Cod. Stat. 1871; re-en. Sec. 294, 3d Div. Rev. Stat. 1879; re-en. Sec. 295, 3d Div. Comp. Stat. 1887; en. Sec. 2079, Pen. C. 1895; re-en. Sec. 9280, Rev. C. 1907. Cal. Pen. C. Sec. 1103.

11979. Evidence on trial for conspiracy. Upon a trial for conspiracy, in a case where an overt act is necessary to constitute the offense, the defendant cannot be convicted unless one or more overt acts are expressly alleged

in the indictment or information, nor unless one of the acts alleged is proved; but other overt acts not alleged may be given in evidence.

History: En. Sec. 170, p. 243, Bannack Stat.; re-en. Sec. 295, p. 235, Cod. Stat. 1871; re-en. Sec. 295, 3d Div. Rev. Stat. 1879; re-en. Sec. 296, 3d Div. Comp. Stat. 1887; amd. Sec. 2080, Pen. C. 1895; re-en. Sec. 9281, Rev. C. 1907. Cal. Pen. C. Sec. 1104.

What constitutes crime of conspiracy and evidence in prosecutions therefor, see note in 3 A. S. R. 474.

Effect of overt act within limitation period where the conspiracy was originally formed and the first act committed beyond the period of limitation, see note in 12 L. R. A. (N. S.) 1053.

11980. When burden of proof shifts in trial for murder. Upon a trial for murder, the commission of the homicide by the defendant being proved, the burden of proving circumstances of mitigation, or that justify or excuse it, devolves upon him, unless the proof on the part of the prosecution tends to show that the crime committed only amounts to manslaughter, or that the defendant was justifiable or excusable.

History: En. Sec. 33, p. 182, Bannack Stat.; re-en. Sec. 40, p. 276, Cod. Stat. 1871; re-en. Sec. 40, 4th Div. Rev. Stat. 1879; re-en. Sec. 40, 4th Div. Comp. Stat. 1887; amd. Sec. 2081, Pen. C. 1895; re-en. Sec. 9282, Rev. C. 1907. Cal. Pen. C. Sec. 1105.

In cases of homicide it is error to charge the jury that the matters of justification, excuse or mitigation should be proved beyond all reasonable doubt. *Territory v. Edmonson*, 4 Mont. 141, 1 Pac. 738.

Upon the conclusion of the state's case, where no evidence of insanity has been introduced, the burden devolves upon the defendant to produce some proof of his insanity, and when he has introduced sufficient to raise a reasonable doubt as to his sanity, he is entitled to an acquittal, unless such evidence is successfully rebutted by the state. *State v. Peel*, 23 Mont. 358, 374, 59 Pac. 169, 75 Am. St. Rep. 529.

The state having proved the killing by the defendant without evidence tending to show that the act amounts to manslaughter, or that the defendant is justifiable or excusable, the crime is presumed to be murder of the second degree. If the state would raise the crime to murder of the first degree, the burden is upon it to prove deliberation; on the other hand, if the defendant would reduce the crime to manslaughter, there must be produced evidence sufficient to create a reasonable doubt of the existence of malice. *State v. Fisher*, 23 Mont. 540, 546, 59 Pac. 919; *State v. Kuum*, 55 Mont. 436, 446, 178 Pac. 288.

An instruction defining the term "preponderance of the evidence" has no place in a criminal trial. Under this section, no greater burden rests upon the defendant than to introduce sufficient evidence to raise a reasonable doubt as to the existence of such so-called affirmative defenses as alibi, insanity, and justification. *State v. Felker*, 27 Mont. 451, 461, 71 Pac. 668.

In a prosecution for murder, the burden of proving circumstances of mitigation or justification is on the defendant. *State v. Byrd*, 41 Mont. 585, 596, 111 Pac. 407.

Where the evidence on the part of the prosecution, in a case of homicide, tends to show that the killing amounted to murder, the burden is upon the defendant to prove circumstances of mitigation, or that justified or excused the killing; but, concerning the quantum of proof, if he raises a reasonable doubt of his guilt, he should be acquitted. *State v. Crean*, 43 Mont. 47, 55, 114 Pac. 603, Ann. Cas. 1912C, 424.

In a prosecution for murder, the duty of showing excuse or palliating circumstances, or of adducing evidence of facts sufficient to raise in the minds of the jurors a reasonable doubt of the defendant's guilt, is upon the accused. *State v. Leakey*, 44 Mont. 354, 366, 120 Pac. 234. See, also, *State v. Sheldon*, 54 Mont. 185, 192, 169 Pac. 37.

Appellant, who was charged with homicide, was in no position to complain of an instruction which by failing to give the rule embodied in this section, to the effect that the burden of proving circumstances of mitigation, justification, or excuse devolves upon defendant, impliedly told the jury that the burden did not rest upon him at any stage of the case. *State v. Halk*, 49 Mont. 173, 175, 141 Pac. 149.

While this section declares the circumstances under which the burden of proof shifts to the defendant, he is not at any time required to bear a greater burden than to go forward with his proofs far enough to create in the minds of the jurors a reasonable doubt as to his guilt. The burden of proof, as these words are used in the criminal law, is never upon the defendant to disprove the facts necessary to establish the crime with which he is charged. It is upon the state from the beginning to the end of the trial. *State v. Halk*, 49 Mont. 173, 175, 141 Pac. 149.

Where the proof of the prosecution, that is, the effect of all the evidence introduced by it, makes out the defense upon which one charged with crime relies, by raising a reasonable doubt of his guilt, defendant may, under this section, avail himself of such defense without proof on his part. *State v. Powell*, 54 Mont. 217, 220, 169 Pac. 46.

Under this section, the accused, in a prosecution for murder, must, where he relies upon self-defense, after proof that a homicide was committed by him, assume the burden of furnishing sufficient evidence to raise a reasonable doubt of his guilt. *State v. Powell*, 54 Mont. 217, 220, 169 Pac. 46.

Although the defendant, in a prosecution for homicide, may avail himself of an affirmative defense established by evidence for the prosecution, it is error to instruct the jury that if any proof offered by the state tends to show that the defendant was "excused or justified" in the killing, then they must acquit him. *State v. Powell*, 54 Mont. 217, 220, 169 Pac. 46.

When a homicide is established, nothing

else appearing, the presumption of innocence is overcome, and the presumption establishing malicious intent comes to the aid of the prosecution. *State v. Colbert*, 58 Mont. 584, 591, 194 Pac. 145.

Where this section is given as an instruction, it is not error to omit therefrom the last clause commencing with the word "unless," when the evidence of the prosecution contains nothing tending to mitigate, justify or excuse the homicide, the effect of such instruction being to make it imperative upon the defense to introduce such evidence. *State v. Colbert*, 58 Mont. 584, 592, 194 Pac. 145.

Cited or applied as section 2081, Penal Code, in *State v. Fisher*, 23 Mont. 540, 546, 59 Pac. 919; as section 9282, Revised Codes, in *State v. Inich*, 55 Mont. 1, 15, 173 Pac. 230.

Burden of proof with respect to issue of self-defense in homicide cases, see note in *Ann. Cas.* 1912C, 47.

Burden of proof where accidental killing is set up as defense, see note in 11 *Ann. Cas.* 309.

11981. All witnesses need not be called. Upon a trial for murder or manslaughter it is not necessary for the state to call as witnesses all persons who are shown to have been present at the homicide, but the court may require all of such witnesses to be sworn and examined.

History: En. Sec. 2082, Pen. C. 1895; re-en. Sec. 9283, Rev. C. 1907.

Under this section it is discretionary with the court whether all witnesses present at a homicide should be sworn and examined, and it is only where the refusal to order such witnesses to be placed on the stand constitutes an abuse of discretion that reversible error is committed. *State v. Rolla*, 21 Mont. 582, 55 Pac. 523.

It is discretionary with the trial court whether all persons who are shown to have

been present at a homicide shall be sworn and examined in behalf of the state, and exercise of its discretion will be corrected only in case of abuse. *State v. Tighe*, 27 Mont. 327, 336, 71 Pac. 3.

Refusal of the court to require the state to call and examine an eye-witness to the crime whose name was indorsed on the information was proper. *State v. Inich*, 55 Mont. 1, 13, 173 Pac. 230.

Cited or applied as section 9283, Revised Codes, in *State v. Vandervoort*, 57 Mont. 540, 545, 189 Pac. 764.

11982. Evidence on a trial for bigamy. Upon a trial for bigamy, it is not necessary to prove either of the marriages by the register, certificate, or other record evidence thereof, but the same may be proved by such evidence as is admissible to prove a marriage in other cases; and when the second marriage took place out of this state, proof of that fact, accompanied with proof of cohabitation thereafter in this state, is sufficient to sustain the charge.

History: Ap. p. Sec. 140, p. 302, Cod. Stat. 1871; re-en. Sec. 140, 4th Div. Rev. Stat. 1879; re-en. Sec. 155, 4th Div.

Comp. Stat. 1887; amd. Sec. 2083, Pen. C. 1895; re-en. Sec. 9284, Rev. C. 1907. Cal. Pen. C. Sec. 1106.

11983. Evidence upon a trial for forging bank bills, etc. Upon a trial for forging any bill or note purporting to be the bill or note of an incorporated company or bank, or for passing, or attempting to pass, or having in possession with intent to pass, any such forged bill, or note, it is not necessary to prove the incorporation of such bank or company by the charter

or act of incorporation, but it may be proved by general reputation, and persons of skill are competent witnesses to prove that such bill or note is forged or counterfeited.

Related section: 11355.

History: En. Secs. 96, 97, p. 290, Cod. Stat. 1871; re-en. Secs. 96, 97, 4th Div. Rev. Stat. 1879; re-en. Secs. 104, 105, 4th Div.

Comp. Stat. 1887; re-en. Sec. 2084, Pen. C. 1895; re-en. Sec. 9285, Rev. C. 1907. Cal. Pen. C. Sec. 1107.

11984. Evidence upon trial for abortion and seduction. Upon a trial for procuring or attempting to procure an abortion, or aiding or assisting therein, or for inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of twenty-five years, for the purpose of prostitution, or aiding or assisting therein, the defendant cannot be convicted upon the testimony of the woman upon or with whom the offense was committed, unless she is corroborated by other evidence.

History: En. Sec. 2085, Pen. C. 1895; re-en. Sec. 9286, Rev. C. 1907. Cal. Pen. C. Sec. 1108.

11985. Proof of corporation by reputation. If upon a trial or proceeding in a criminal case, the existence, constitution, or powers of any corporation shall become material, or be in any way drawn in question, it is not necessary to produce a certified copy of the articles or act of incorporation, but the same may be proved by general reputation, or by the printed statutes of the state, or government or country by which such corporation was created.

History: En. Sec. 172, p. 243, Bannack Stat.; re-en. Sec. 297, p. 235, Cod. Stat. 1871; re-en. Sec. 297, 3d Div. Rev. Stat. 1879; re-en. Sec. 298, 3d Div. Comp. Stat. 1887; re-en. Sec. 2086, Pen. C. 1895; re-en. Sec. 9287, Rev. C. 1907.

11986. Evidence on a trial for selling, etc., lottery tickets. Upon a trial for the violation of any of the provisions of sections 11149 to 11158 of this code, it is not necessary to prove the existence of any lottery in which any lottery ticket purports to have been issued, or to prove the actual signing of any such ticket, or share, or pretended ticket or share, of any pretended lottery, nor that any lottery ticket, share or interest was signed or issued by the authority of any manager, or of any person assuming to have authority as manager; but in all cases proof of the sale, furnishing, bartering, or procuring of any ticket, share, or interest therein, or of any instrument purporting to be a ticket, or part or share of any such ticket, is evidence that such share or interest was signed and issued according to the purport thereof.

History: En. Sec. 2087, Pen. C. 1895; re-en. Sec. 9288, Rev. C. 1907. Cal. Pen. C. Sec. 1109.

11987. Evidence of false pretenses. Upon a trial for having, with an intent to cheat or defraud another designedly, by any false pretense, obtained the signature of any person to a written instrument, or having obtained from any person any money, personal property, or valuable thing, the defendant cannot be convicted if the false pretense was expressed in language unaccompanied by a false token or writing, unless the pretense, or some note or memorandum thereof, be in writing, subscribed by or in the handwriting of the defendant, or unless the pretense is proven by testimony of two witnesses or that of one witness and corroborating circumstances; but this section

shall not apply to a prosecution for falsely representing or personating another, and, in such assumed character, marrying or receiving any money or property.

Related sections: 6290, 11383, 11410.

re-en. Sec. 9289, Rev. C. 1907; amd. Sec. 1, Ch. 8, L. 1917. Cal. Pen. C. Sec. 1110.

History: En. Sec. 2088, Pen. C. 1895;

11988. Conviction on testimony of accomplice. A conviction cannot be had on the testimony of an accomplice, unless he is corroborated by other evidence, which in itself, and without the aid of the testimony of the accomplice, tends to connect the defendant with the commission of the offense; and the corroboration is not sufficient, if it merely shows the commission of the offense, or the circumstances thereof.

History: Ap. p. Sec. 316, p. 238, Cod. Stat. 1871; re-en. Sec. 316, 3d Div. Rev. Stat. 1879; re-en. Sec. 317, 3d Div. Comp. Stat. 1887; en. Sec. 2089, Pen. C. 1895; re-en. Sec. 9290, Rev. C. 1907. Cal. Pen. C. Sec. 1111.

Evidence held to be insufficient corroboration of an accomplice's testimony that he and accused, having been discovered stealing a cow by a white man, followed him, and killed him and his dog, placing the two bodies together, where the only identification of the locality is that it was on the same stream, the country being unsettled cattle country. *State v. Spotted Hawk*, 22 Mont. 33, 57, 55 Pac. 1026.

The corroboration of the testimony of an accomplice must be evidence from an independent source, and it must be such that this independent evidence in itself, without considering the testimony of the accomplice at all, tends to connect the defendant with the commission of the crime charged. It is not a satisfaction of the statute to corroborate an accomplice upon immaterial matters, nor to prove merely that the crime charged has been committed, or the circumstances under which it has been committed. *State v. Geddes*, 22 Mont. 68, 83, 55 Pac. 919; *State v. Lawson*, 44 Mont. 488, 490, 120 Pac. 808; See, also, *State v. Stevenson*, 26 Mont. 332, 334, 67 Pac. 1001.

This section does not, unless by implication, require the production of evidence from independent sources with respect to the corpus delicti, the identity of the person killed or any other particular. *State v. Calder*, 23 Mont. 504, 513, 59 Pac. 903; *State v. Stevenson*, 26 Mont. 332, 335, 67 Pac. 1001.

It is not necessary that the evidence in corroboration of the accomplice must be of sufficient strength, when standing alone, to connect the defendant with the commission of the crime, or to establish his guilt; if it tends in and of itself alone to prove the defendant's connection, it is sufficient. *State v. Calder*, 23 Mont. 504, 520, 59 Pac. 903.

Corroborating evidence tending to establish, independently of the accomplice's

statements, the commission of the offense and accused's connection therewith, is sufficient, though, if the accomplice's testimony was not considered, the corroborating evidence would be insufficient to convict. *State v. Stevenson*, 26 Mont. 332, 334, 67 Pac. 1001.

In a larceny case, the testimony of an accomplice will not support a conviction unless corroborative. *State v. McCarthy*, 36 Mont. 226, 235, 92 Pac. 521.

A person through whom a litigant attempted to corruptly influence a member of a jury panel, and who, while declining to act as intermediary, stated that he would not say anything to anybody, but that he would have to tell the prospective trial juror, with whom he was connected in a business way, so as to put him on his guard, was not an accomplice whose testimony it was necessary to corroborate before the litigant could be found guilty of contempt. *State ex rel. Webb v. District Court*, 37 Mont. 191, 199, 95 Pac. 593, 15 Ann. Cas. 743.

The testimony of an accomplice is sufficiently corroborated, where the evidence, independent of the testimony of the accomplice, has sufficient probative value to justify a submission to the jury for a finding as to the guilt of accused. *State v. Biggs*, 45 Mont. 400, 406, 123 Pac. 410.

To constitute a witness in a prosecution for larceny an accomplice, within the meaning of this section, he must have entertained a criminal intent common with that which moved the defendant to commit the crime with which he stood charged, or, not having been present at its commission, must have advised and encouraged it, and whether he did either was a question for the jury under appropriate instructions. *State v. Slothower*, 56 Mont. 230, 232, 182 Pac. 270.

It is not necessary that an accomplice should be corroborated upon every fact to which he testifies; nor is it necessary that the independent evidence should be sufficient of itself to establish defendant's guilt, or to connect him with the commission of the crime charged, but it is sufficient if it tends to do so. *State v. Slothower*, 56 Mont. 230, 233, 182 Pac. 270.

Evidence held sufficient to establish corroboration within the meaning of this section. *State v. Slothower*, 56 Mont. 230, 233, 182 Pac. 270.

Cited or applied as section 2089, Penal Code, in *State v. Allen*, 34 Mont. 403, 407, 87 Pac. 177; as section 9290, Revised Codes, in *State v. Wakely*, 43 Mont. 427, 438, 117 Pac. 95; *State v. Van*, 44 Mont. 374, 120 Pac. 479.

Whether conviction may be based upon the uncorroborated testimony of accomplices, see notes in 71 Am. Dec. 671; 34 Am. Rep. 408; 98 A. S. R. 158.

Thief as accomplice of one charged with receiving stolen property, or vice versa, within rule requiring corroboration, see note in 9 A. L. R. 1397.

Corroboration of prosecuting witness in bastardy proceedings, see note in 1 A. L. R. 635.

11989. Mistake in indictment or information. When it appears, at any time before verdict or judgment, that a mistake has been made in charging the proper offense, the defendant must not be discharged, if there appears good cause to detain him in custody; but the court must commit him, or require him to give bail for his appearance to answer to the offense; and may also require the witnesses to give bail for their appearance.

Related sections: 11804, 11849, 11870, 11874.

History: En. Sec. 188, p. 246, Bannack Stat.; re-en. Sec. 309, p. 237, Cod. Stat.

1871; re-en. Sec. 309, 3d Div. Rev. Stat. 1879; re-en. Sec. 310, 3d Div. Comp. Stat. 1887; amd. Sec. 2090, Pen. C. 1895; re-en. Sec. 9291, Rev. C. 1907.

11990. Discharge of jury for lack of jurisdiction, etc. The court may direct the jury to be discharged where it appears that it has not jurisdiction of the offense, or that the facts charged do not constitute an offense punishable by law.

History: En. Sec. 317, p. 238, Cod. Stat. 1871; re-en. Sec. 317, 3d Div. Rev. Stat. 1879; re-en. Sec. 318, 3d Div. Comp. Stat. 1887; re-en. Sec. 2091, Pen. C. 1895; re-en. Sec. 9292, Rev. C. 1907. Cal. Pen. C. Sec. 1113.

The court has express statutory author-

ity to discharge the jury, in a criminal case, if the opening statement of the county attorney discloses affirmatively that the offense charged was committed outside of the county in which the prosecution is being had. *State v. Hall*, 55 Mont. 182, 185, 175 Pac. 267.

11991. Proceedings, if jury discharged for want of jurisdiction of offense committed out of the state. If the jury be discharged because the court has not jurisdiction of the offense charged, and it appear that it was committed out of the jurisdiction of this state, the defendant must be discharged.

History: En. Sec. 2092, Pen. C. 1895; re-en. Sec. 9293, Rev. C. 1907. Cal. Pen. C. Sec. 1114.

11992. Proceedings in such case when offense committed in the state. If the offense was committed within the jurisdiction of another county of this state, the court may direct the defendant to be committed for such time as it deems reasonable, to await a warrant from the proper county for his arrest; or if the offense is a misdemeanor only, it may admit him to bail in an undertaking, with sufficient sureties, that he will, within such time as the court may appoint, render himself amenable to a warrant for his arrest from the proper county; and, if not sooner arrested thereon, will attend at the office of the sheriff of the county where the trial was had, at a certain time particularly specified in the undertaking to surrender himself upon the warrant, if issued, or that his bail will forfeit such sum as the court may fix, to be mentioned in the undertaking; and the clerk must forthwith transmit a certified copy of the indictment or information, and of

all the papers filed in the action, to the county attorney of the proper county, the expense of which transmission is chargeable to that county.

History: En. Sec. 2093, Pen. C. 1895; re-en. Sec. 9294, Rev. C. 1907. Cal. Pen. C. Sec. 1115.

11993. Same. If the defendant is not arrested on a warrant from the proper county, as provided in the next preceding section, he must be discharged from custody or his bail in the action is exonerated, or money deposited instead of bail must be refunded as the case may be, and the sureties in the undertaking, as mentioned in that section, must be discharged. If he is arrested, the same proceedings must be had thereon as upon the arrest of a defendant in another county on a warrant of arrest issued by a magistrate.

History: En. Sec. 2094, Pen. C. 1895; re-en. Sec. 9295, Rev. C. 1907. Cal. Pen. C. Sec. 1116.

11994. Proceedings, if jury discharged because the facts do not constitute an offense. If the jury be discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged; or if admitted to bail, that his bail be exonerated; or if he has deposited money instead of bail, that the money be refunded to him, unless in its opinion a new indictment or information can be framed, upon which the defendant can be legally convicted, in which case it may direct the county attorney to file a new information, or (if the defendant has not been committed by a magistrate) direct that the case be submitted to the same or another grand jury; and the same proceedings must be had thereon as are prescribed in section 11894.

History: En. Sec. 2095, Pen. C. 1895; re-en. Sec. 9296, Rev. C. 1907. Cal. Pen. C. Sec. 1117.

11995. When evidence on either side is closed, court may advise jury to acquit. If, at any time after the evidence on either side is closed, the court deems it insufficient to warrant a conviction, it may advise the jury to acquit the defendant; but the jury is not bound by the advice.

History: En. Sec. 2096, Pen. C. 1895; re-en. Sec. 9297, Rev. C. 1907. Cal. Pen. C. Sec. 1118.

If a trial judge is of the opinion that the defendant, if convicted, should be granted a new trial because of the insufficiency of the evidence, it is his duty to advise the jury to return a verdict of not guilty. *State v. Fisher*, 23 Mont. 540, 555, 59 Pac. 919.

This section is applicable to those cases only in which the trial court deems the evidence, although tending to prove every element necessary to constitute the crime charged, insufficient in weight to warrant a conviction. *State v. Mahoney*, 24 Mont. 281, 286, 61 Pac. 647.

Where defendant was charged with having had carnal knowledge of a female under the statutory age of consent, violently, and against her will, and there was ample

evidence that she was under such age, though the evidence of her resistance was weak, the instruction authorized by this section was properly refused, the crime being complete without the element of violently overcoming the female's resistance. *State v. Mahoney*, 24 Mont. 281, 286, 61 Pac. 647.

Cited or applied as section 2096, Penal Code, in *State v. Welch*, 22 Mont. 92, 99, 55 Pac. 927; *State v. Auchard*, 22 Mont. 14, 15, 55 Pac. 361; *State v. Koch*, 33 Mont. 490, 498, 85 Pac. 272, 8 Ann. Cas. 804; as section 9297, Revised Codes, in *State v. Tate*, 55 Mont. 343, 177 Pac. 243; *State v. Gomez*, 58 Mont. 177, 180, 190 Pac. 982.

Refusal of the court to direct acquittal as ground for predicated error, see note in Ann. Cas. 1912C, 799.

11996. View of place of offense or property. When in the opinion of the court it is proper that the jury should view the place in which the offense

is charged to have been committed, or in which any other material fact occurred, or in cases involving the brand or mark or identity of livestock, or other personal property, it may order the jury to be conducted in a body in the custody of the sheriff and in the presence of the defendant and his counsel to the place which must be shown to them by a person appointed by the court for that purpose; and in cases involving the brand or mark on, and identity of livestock or other personal property, the jury must be conducted in a body in the custody of the sheriff and in the presence of the defendant and his attorney to a convenient place where the livestock or personal property in question can be shown to them by a person appointed by the court that they may personally inspect the same; and the sheriff must be sworn to suffer no person to speak to or communicate with the jury, nor to do so himself on any subject connected with the trial, and return them into the court without unnecessary delay or at a specified time, as the court may direct.

History: Ap. p. Sec. 321, p. 239, Cod. Stat. 1871; re-en. Sec. 321, 3d Div. Rev. Stat. 1879; re-en. Sec. 322, 3d Div. Comp. Stat. 1887; amd. Sec. 2097, Pen. C. 1895; en. Sec. 1, Ch. 113, L. 1907; re-en. Sec. 9298, Rev. C. 1907. Cal. Pen. C. Sec. 1119.

Cited or applied as section 2097, Penal Code, before amendment, in *State v. Landry*, 29 Mont. 218, 226, 74 Pac. 418; *May v. Northern Pacific Ry. Co.*, 32 Mont. 522, 535, 81 Pac. 328, 4 Ann. Cas. 605, 70 L. R. A. 111.

View in absence of accused as prejudicial error, see notes in 11 Ann. Cas. 1159; Ann. Cas. 1915B, 568.

Unauthorized view by juror or jury as ground for new trial or reversal, see note in L. R. A. 1915B, 705.

Occurrences during a view as warranting the jury's discharge without letting in pleas of former jeopardy upon subsequent trial, see note in 4 A. L. R. 1266.

11997. Knowledge of juror to be declared in court, and he to be sworn as a witness. If a juror has any personal knowledge respecting a fact in controversy in a cause, he must declare the same in open court during the trial. If, during the retirement of jury, a juror declare a fact which could be evidence in the cause, as of his own knowledge, the jury must return into court. In either of these cases, the juror making the statement must be sworn as a witness, and examined in the presence of the parties.

History: Ap. p. Sec. 192, p. 246, Ban-nack Stat.; re-en. Sec. 313, p. 238, Cod. Stat. 1871; re-en. Sec. 313, 3d Div. Rev. Stat. 1879; re-en. Sec. 314, 3d Div. Comp.

Stat. 1887; en. Sec. 2098, Pen. C. 1895; re-en. Sec. 9299, Rev. C. 1907. Cal. Pen. C. Sec. 1120.

11998. Jurors, separation of, during trial. The jurors sworn to try an action may, at any time before the submission of the cause to the jury, in the discretion of the court, be permitted to separate or be kept in charge of a proper officer. The officer must be sworn to keep the jurors together until the next meeting of the court, to suffer no person to speak to them or communicate with them, nor to do so himself, on any subject connected with the trial, and to return them into court at the next meeting thereof.

History: En. Sec. 2099, Pen. C. 1895; re-en. Sec. 9300, Rev. C. 1907. Cal. Pen. C. Sec. 1121.

Separation of jurors in criminal case and effect thereof, see notes in 60 Am. Rep. 73; 103 A. S. R. 155.

Permitting separation of jury in capital case, see note in 24 L. R. A. (N. S.) 776.

Right to permit separation of jury in criminal cases, other than capital, after finding but before rendition of verdict, see note in 31 L. R. A. (N. S.) 1005.

11999. Jury at each adjournment, must be admonished, etc. The jury must also, at each adjournment of the court, whether permitted to separate or kept in charge of officers, be admonished by the court that it is their duty not to converse among themselves, or with any one else, on any

subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to them.

History: En. Sec. 193, p. 246, Bannack Stat.; re-en. Sec. 314, p. 238, Cod. Stat. 1871; re-en. Sec. 314, 3d Div. Rev. Stat. 1879; re-en. Sec. 315, 3d Div. Comp. Stat. 1887; amd. Sec. 2100, Pen. C. 1895; re-en. Sec. 9301, Rev. C. 1907. Cal. Pen. C. Sec. 1122.

The court is not required, under this section, to admonish the jury before it has been completed; as, where a recess has been taken before the completion of the jury; the body of men intended for a jury is not such, under section 8885, until it has been sworn to try and determine by verdict a question of fact. *State v. Hall*, 55 Mont. 182, 186, 175 Pac. 267.

The record on appeal in a criminal cause which disclosed that when an adjournment

was taken, "the jury was admonished by the court and placed in charge of the sheriff," etc. was sufficient to disclose compliance with this section, imported verity, and could not be impeached by affidavit. *State v. Hall*, 55 Mont. 182, 186, 175 Pac. 267.

Where a jury was completed on the afternoon of the 6th of the month, and an adjournment was then taken until the 7th, and at noon on the 7th a recess was taken until 1:30 p. m. of that day, a new trial will not be granted because of the failure of the court to give to the jury the full statutory admonition, where the jury was properly admonished, as required by this section, at each adjournment taken after the noon recess on the 7th. *State v. Hall*, 55 Mont. 182, 186, 175 Pac. 267.

12000. Juror unable to perform his duties, proceedings. If, before the conclusion of the trial, a juror becomes sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case a new juror may be sworn, and the trial begun anew, or the jury may be discharged, and a new jury then or afterwards impaneled. If the judge becomes sick, he may discharge the jury.

History: Ap. p. Sec. 324, p. 239, Cod. Stat. 1871; re-en. Sec. 324, 3d Div. Rev. Stat. 1879; re-en. Sec. 325, 3d Div. Comp. Stat. 1887; en. Sec. 2101, Pen. C. 1895; re-en. Sec. 9302, Rev. C. 1907. Cal. Pen. C. Sec. 1123.

Temporary separation of juror from fellows on account of illness as ground for new trial in criminal case, see note in 20 Ann. Cas. 656.

12001. Court to decide questions of law arising during trial. The court must decide all questions of law which arise in the course of a trial.

History: En. Sec. 2102, Pen. C. 1895; re-en. Sec. 9303, Rev. C. 1907. Cal. Pen. C. Sec. 1124.

12002. Conviction or acquittal. When the defendant has been convicted or acquitted upon an indictment or information for an offense, consisting of different degrees, the conviction or acquittal is a bar to another indictment or information for the offense charged in the former, or for any lower degree of that offense, or for an offense necessarily included therein.

History: En. Sec. 2103, Pen. C. 1895; re-en. Sec. 9304, Rev. C. 1907. Cal. Pen. C. Sec. 1112.

Cited or applied as section 313, Third Division Compiled Statutes 1887, in *Territory v. Willard*, 8 Mont. 328, 332, 21 Pac. 301; as section 2103, Penal Code, in *State v. Keerl*, 33 Mont. 501, 510, 85 Pac. 862.

Conviction for lesser offense on trial for greater as bar to prosecution for greater offense on new trial, see notes in 4 Ann. Cas. 778; 16 Ann. Cas. 1206; 21 L. R. A. (N. S.) 20.

12003. On indictment for libel, jury to determine law and fact. On a trial for libel, the jury has the right to determine the law and the fact.

History: Ap. p. Sec. 116, p. 205, Bannack Stat.; re-en. Sec. 139, p. 301, Cod. Stat. 1871; re-en. Sec. 139, 4th Div. Rev. Stat. 1879; re-en. Sec. 154, 4th Div. Comp.

Stat. 1887; amd. Sec. 2104, Pen. C. 1895; re-en. Sec. 9305, Rev. C. 1907. Cal. Pen. C. Sec. 1125.

12004. In all other cases court to decide questions of law. On a trial for any other offense than libel, questions of law are to be decided by the court, questions of fact by the jury; although the jury have the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court.

History: En. Sec. 2105, Pen. C. 1895; re-en. Sec. 9306, Rev. C. 1907. Cal. Pen. C. Sec. 1126.

the law as declared and acquit defendant, however convincing the evidence may be, and the court has no power to punish them for such conduct. *State v. Koch*, 33 Mont. 490, 497, 85 Pac. 272, 8 Ann. Cas. 804.

The jury have the power to disregard

12005. Jury may decide in court, or retire in custody of officers. After hearing the charge, the jury may either decide in court, or may retire for deliberation. If they do not agree without retiring, an officer must be sworn to keep them together in some private and convenient place, and not to permit any person to speak to or communicate with them, nor to do so himself, unless by order of the court, or to ask them whether they have agreed upon a verdict, and to return them into court when they have so agreed, or when ordered by the court.

History: Ap. p. Sec. 194, p. 246, Ban-nack Stat.; re-en. Sec. 315, p. 238, Cod. Stat. 1871; re-en. Sec. 315, 3d Div. Rev. Stat. 1879; re-en. Sec. 316, 3d Div. Comp.

Stat. 1887; en. Sec. 2106, Pen. C. 1895; re-en. Sec. 9307, Rev. C. 1907. Cal. Pen. C. Sec. 1128.

12006. Defendant appearing for trial may be committed. When a defendant who has given bail appears for trial, the court may, in its discretion, at any time after his appearance for trial, order him to be committed to the custody of the proper officer of the county, to abide the judgment or further order of the court, and he must be committed and held in custody accordingly.

History: En. Sec. 2107, Pen. C. 1895; re-en. Sec. 9308, Rev. C. 1907. Cal. Pen. C. Sec. 1129.

12007. If county attorney fails to attend, court may appoint. If the county attorney fails to attend at the trial, the court must appoint some attorney-at-law to perform the duties of the county attorney before the grand jury or otherwise.

History: En. Sec. 2108, Pen. C. 1895; re-en. Sec. 9309, Rev. C. 1907. Cal. Pen. C. Sec. 1130.

services are reasonably worth. *State ex rel. McGrade v. District Court*, 52 Mont. 371, 374, 375, 157 Pac. 1157.

An attorney appointed under this section to perform the duties of a county attorney in a proceeding in which the latter was sought to be removed upon the accusation of a taxpayer charging neglect of duty, may not demand or receive compensation for his services out of the county treasury, the statute not making any provision therefor, and the county not being liable as upon an implied contract to pay what the

The district court is vested with the power of appointment of some attorney in any criminal case when the emergency contemplated by this section arises, and of removal, where a disqualification of the attorney appointed appears, and while the court will usually choose some one from among the local attorneys, it is not required to do so. *State ex rel. McGrade v. District Court*, 52 Mont. 371, 374, 157 Pac. 1157.

12008. Trials for larceny. Upon a trial for larceny of money, bank notes, certificates of stock, or valuable securities, the allegation of the indictment or information, so far as regards the description of the property, is sustained if the offender be proved to have embezzled or stolen any

money, bank notes, certificates of stock, or valuable securities, although the particular species of coin or other money, or the number, denomination, or kind of bank notes, certificates of stock, or valuable security be not proved; and upon a trial for larceny, if the offender be proved to have stolen any piece of coin or other money, any bank note, certificate of stock, or valuable security, although such piece of coin or other money, or such bank note, certificate of stock, or valuable security, may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

Related sections: 11368, 11860.
 History: En. Sec. 2109, Pen. C. 1895; re-en. Sec. 9310, Rev. C. 1907. Cal. Pen. C. Sec. 1131.
 Larceny is included in the crime of robbery, and in a prosecution for robbery the allegation of the information describing the property is sustained if it be proved that defendant has stolen any money or bank notes. State v. Rodgers, 21 Mont. 143.

CHAPTER 26.

CONDUCT OF JURY AFTER SUBMISSION OF CASE.

- Section 12009. Room, etc., for Jury After Retirement.
- 12010. Accommodations for Jury When Kept Together.
- 12011. What Papers the Jury May Take With Them.
- 12012. After Retirement, May Return Into Court for Information.
- 12013. If Juror, After Retirement, Becomes Sick, etc.
- 12014. Not to Be Discharged Unless There Is No Probability That They Can Agree.
- 12015. When Discharged Without Verdict, Cause to Be Again Tried.
- 12016. Court May Adjourn During Absence, But Deemed Open.

12009. Room, etc., for jury after retirement. A room must be provided by the county commissioners of each county for the use of the jury, upon their retirement for deliberation, with suitable furniture, fuel, lights, and stationery. If the county commissioners neglect, the court may order the sheriff to do so, and the expenses incurred by him in carrying the order into effect, when certified by the court, are a county charge.

History: En. Sec. 2120, Pen. C. 1895; re-en. Sec. 9311, Rev. C. 1907. Cal. Pen. C. Sec. 1135.

12010. Accommodations for jury when kept together. When the jury are kept together, either during the progress of the trial or after retirement for deliberation, they must be provided by the sheriff, at the expense of the county, with suitable and sufficient food and lodging.

History: En. Sec. 323, p. 239, Cod. Stat. 1887; amd. Sec. 2121, Pen. C. 1895; re-en. 1871; re-en. Sec. 323, 3d Div. Rev. Stat. Sec. 9312, Rev. C. 1907. Cal. Pen. C. Sec. 1136; re-en. Sec. 324, 3d Div. Comp. Stat. 1136.

12011. What papers the jury may take with them. Upon retiring for deliberation, the jury may take with them all papers (excepting depositions) which have been received as evidence in the cause, or copies of such public records or private documents given in evidence as ought not, in the opinion of the court, to be taken from the person having them in possession. They may also take with them the written instructions and

notes of the testimony or other proceedings on the trial, taken by themselves, or any of them, but none taken by any other person.

History: En. Sec. 2122, Pen. C. 1895; re-en. Sec. 9313, Rev. C. 1907. Cal. Pen. C. Sec. 1137.

Where on motion for new trial it is found that counsel for defendant consented to the taking of certain exhibits to the

jury room previously admitted in evidence on a prosecution for murder, such consent constitutes a waiver of any objection to the sending of the exhibits to the jury during retirement. *State v. Allen*, 23 Mont. 118, 57 Pac. 725.

12012. After retirement, may return into court for information. After the jury have retired for deliberation, if there be any disagreement between them as to the testimony, or if they desire to be informed on any point of law arising in the cause, they must require the officer to conduct them into court. Upon being brought into court, the information required must be given in the presence of the county attorney and the defendant and his counsel.

History: En. Sec. 2123, Pen. C. 1895; re-en. Sec. 9314, Rev. C. 1907. Cal. Pen. C. Sec. 1138.

The information referred to in this section is deemed to be oral if it is not in writing at the time of its delivery and read to the jury as written. *State v. Fisher*, 23 Mont. 540, 553, 59 Pac. 919.

Instructions in a prosecution for robbery, there being also allegations of prior convictions in another state, held not ground for reversal, though they were improper. *State v. Paisley*, 36 Mont. 237, 251, 92 Pac. 566.

12013. If juror, after retirement, becomes sick, etc. If, after the retirement of the jury, one of them be taken so sick as to prevent the continuance of his duty, or any other accident or cause occur to prevent their being kept for deliberation, the jury may be discharged.

History: Ap. p. Sec. 330, p. 239, Cod. Stat. 1871; re-en. Sec. 330, 3d Div. Rev. Stat. 1879; re-en. Sec. 331, 3d Div. Comp. Stat. 1887; en. Sec. 2124, Pen. C. 1895; re-en. Sec. 9315, Rev. C. 1907. Cal. Pen. C. Sec. 1139.

Cited or applied as section 2124, Penal Code, in *State v. Keerl*, 33 Mont. 501, 510, 85 Pac. 862.

12014. Not to be discharged unless there is no probability that they can agree. Except as provided in the last section, the jury cannot be discharged after the cause is submitted to them until they have agreed upon their verdict, and rendered it in open court, unless by consent of both parties, entered upon the minutes, or unless at the expiration of such time as the court may deem proper, it satisfactorily appears that there is reasonable probability that the jury cannot agree.

History: En. Sec. 2125, Pen. C. 1895; re-en. Sec. 9316, Rev. C. 1907. Cal. Pen. C. Sec. 1140.

In a prosecution for murder, where the jury was discharged at the end of a mis-

trial, because there was "a reasonable probability that the jury cannot agree," an entry in the minutes in those words was in accordance with this section and sufficient. *State v. Keerl*, 33 Mont. 501, 513, 85 Pac. 862.

12015. When discharged without verdict, cause to be again tried. In all cases where a jury is discharged or prevented from giving a verdict by reason of an accident or other cause, except where the defendant is discharged during the progress of the trial, or after the cause is submitted to them, the cause may be again tried.

History: En. Sec. 331, p. 240, Cod. Stat. 1879; re-en. Sec. 332, 3d Div. Comp. Stat. 1871; re-en. Sec. 331, 3d Div. Rev. Stat. 1887; amd. Sec. 2126, Pen. C. 1895; re-en.

Sec. 9317, Rev. C. 1907. Cal. Pen. C. Sec. 1141.

It appears conclusively from this section that the defendant may not be tried again if he has been discharged during the progress of the trial, or after the case has been submitted to the jury, although the jury may have been discharged or prevented from giving a verdict by reason of an accident or other cause. Such a discharge of the prisoner amounts to an acquittal, and brings him within the provision of section 11612, although there has not been any judgment of acquittal as mentioned in section 11907. State v. Keerl, 33 Mont. 501, 515, 85 Pac. 862.

It seems that where the defendant in a

criminal prosecution has been arraigned, and the trial has been begun upon a valid indictment or information, and he is discharged by a competent court before verdict, an acquittal results, and the plea of once in jeopardy will lie. State v. Keerl, 33 Mont. 501, 516, 85 Pac. 862.

Whenever jeopardy has occurred for the same offense, and has, without necessity or the procurement of the accused, ended by a discharge of the jury before verdict, the plea of once in jeopardy is available. State v. Gaimos, 53 Mont. 118, 122, 162 Pac. 596.

Former jeopardy notwithstanding order of mistrial, see notes in 1 Ann. Cas. 118; 10 Ann. Cas. 1086; Ann. Cas. 1914B, 774.

12016. Court may adjourn during absence, but deemed open. While the jury are absent the court may adjourn from time to time, as to other business, but it must nevertheless be open for every purpose connected with the cause submitted to the jury, until a verdict is returned or the jury discharged.

History: En. Sec. 332, p. 240, Cod. Stat. 1871; re-en. Sec. 332, 3d Div. Rev. Stat. 1879; re-en. Sec. 333, 3d Div. Comp. Stat.

1887; re-en. Sec. 2127, Pen. C. 1895; re-en. Sec. 9318, Rev. C. 1907. Cal. Pen. C. Sec. 1142.

CHAPTER 27.

THE VERDICT.

- Section 12017. Return of Jury.
 12018. Appearance of Defendant.
 12019. Manner of Taking Verdict.
 12020. General Verdict.
 12021. Insufficient Verdict.
 12022. Jury to Find Degree of Crime.
 12023. Jury May Find Upon Charge of Previous Conviction.
 12024. Jury May Convict of Lesser Offense, or of Attempt.
 12025. Verdict as to Some Defendants, New Trial as to Others.
 12026. To Ascertain Value of Property.
 12027. Jury May Assess Punishment.
 12028. Court May Assess Punishment.
 12029. Same.
 12030. Same.
 12031. Court May Reduce Verdict.
 12032. Polling Jury.
 12033. Juror in Contempt.
 12034. Defendant, When to Be Discharged.
 12035. Proceedings Upon Conviction.
 12036. Proceedings on Acquittal on Ground of Insanity.

12017. Return of jury. When the jury have agreed upon their verdict, they must be conducted into court by the officer having them in charge. Their names must then be called, and if all do not appear, the rest must be discharged without giving a verdict. In that case the action may be again tried at the same or another term or session.

History: En. Sec. 2140, Pen. C. 1895; re-en. Sec. 9319, Rev. C. 1907. Cal. Pen. C. Sec. 1147.

12018. Appearance of defendant. If charged with a felony, the defendant must, before the verdict is received, appear in person. If for a misdemeanor, the verdict may be rendered in his absence.

History: En. Sec. 2141, Pen. C. 1895; re-en. Sec. 9320, Rev. C. 1907. Cal. Pen. C. Sec. 1148.

It must affirmatively appear that one charged with a felony was present when the verdict was received; but this may be shown by every fair intendment of the record. *State v. De Lea*, 36 Mont. 531, 537, 93 Pac. 814.

Clerk's minutes, in a prosecution for fel-

ony, construed on appeal to show that the defendant was present in court when the verdict was returned, as required by this section. *State v. Hall*, 55 Mont. 182, 187, 175 Pac. 267.

Waiver of presence of accused at time of receiving verdict upon trial for felony, see notes in 14 L. R. A. (N. S.) 603; 32 L. R. A. (N. S.) 306; L. R. A. 1915D, 817; 13 Ann. Cas. 1213; Ann. Cas. 1915B, 447.

12019. Manner of taking verdict. When the jury agree upon a verdict, they must be brought into court and their names called by the clerk, and if all be present, their foreman must deliver their verdict to the court, who may, with their consent, in their presence, correct the same as to matters of form. The court must deliver the verdict to the clerk, who must file the same, and then read the same to the jury, and ask them if the verdict as recorded is their verdict; if all of the jury in the case of a felony, or two-thirds of their number in the case of a misdemeanor; assent thereto, they must be discharged.

Related section: 12322.

History: Ap. p. Sec. 195, p. 247, Ban-nack Stat.; amd. Sec. 333, p. 240, Cod. Stat. 1871; re-en. Sec. 333, 3d Div. Rev. Stat. 1879; re-en. Sec. 334, 3d Div. Comp. Stat. 1887; en. Sec. 2142, Pen. C. 1895; re-en. Sec. 9321, Rev. C. 1907. Cal. Pen. C. Secs. 1149 and 1164.

The purpose of the provision of this section, requiring the names of the jurors to be called when their verdict is delivered, is to insure their presence before the verdict is delivered. *State v. De Lea*, 36 Mont. 531, 534, 93 Pac. 814.

While the fact that the defendant in a criminal cause was present when the verdict was received must affirmatively appear, minutes which show his presence during the trial up to the time the jury retired, and then recite that "defendant thereupon waived the polling of the jury," and "defendant thereupon waives time for sentence and elects to be sentenced at this time," sufficiently meet this requirement. *State v. De Lea*, 36 Mont. 531, 536, 93 Pac. 814.

12020. General verdict. A verdict upon a plea of not guilty is either "guilty" or "not guilty," which imports a conviction or acquittal of the offense charged in the indictment or information. Upon a plea of a former conviction or acquittal of the same offense, it is either "for the state" or "for the defendant." When the defendant is acquitted on the ground that he was insane at the time of the commission of the act charged, the verdict must be "not guilty by reason of insanity." When the defendant is acquitted on the ground of variance between the indictment or information and the proof, the verdict must be "not guilty by reason of variance between indictment or information and proof."

History: En. Sec. 2143, Pen. C. 1895; re-en. Sec. 9322, Rev. C. 1907. Cal. Pen. C. Sec. 1151.

Where defendant, charged with assault in the first degree, relied wholly upon the defense of insanity, the court's instruction that they might find defendant guilty of assault in the first, second, or third degree, or not guilty was inaccurate, the jury

should have been told that, if they found him not guilty because insane, their verdict should be "not guilty by reason of insanity." *State v. Crowe*, 39 Mont. 174, 184, 102 Pac. 579, 18 Ann. Cas. 643.

Cited or applied as section 2143, Penal Code, in *State v. O'Brien*, 19 Mont. 6, 47 Pac. 103; In re *Lewis*, 51 Mont. 539, 540, 154 Pac. 713.

12021. Insufficient verdict. If the verdict is insufficient, the jury must again retire.

Related section: 12029.

History: En. Sec. 2144, Pen. C. 1895; re-en. Sec. 9323, Rev. C. 1907.

Where a jury in a criminal case brings in a verdict of guilty, and, in the attempted exercise of its right to fix the punishment, has set out in its verdict the maximum of years the defendant is to serve in prison, but has neglected to set out the minimum, the court should, on motion therefor, send it out again to fill in the omission. *In re Gomez*, 52 Mont. 189, 190, 156 Pac. 1078.

12022. Jury to find degree of crime. Whenever a crime is distinguished into degrees, the jury, if they convict the defendant, must find the degree of the crime of which he is guilty.

History: En. Sec. 196, p. 247, Bannack Stat.; re-en. Sec. 341, p. 241, Cod. Stat. 1871; re-en. Sec. 341, 3d Div. Rev. Stat. 1879; re-en. Sec. 342, 3d Div. Comp. Stat. 1887; amd. Sec. 2145, Pen. C. 1895; re-en. Sec. 9324, Rev. C. 1907. Cal. Pen. C. Sec. 1157.

Where there is evidence tending to show that defendant is guilty of murder in the first degree, murder in the second degree, and manslaughter, it is the duty of the court to instruct that a verdict for manslaughter may be returned, manslaughter not being a degree of murder. *State v. Shadwell*, 26 Mont. 52, 59, 66 Pac. 508.

There is but one crime of murder, and its division into degrees is simply for the purpose of adjusting the punishment with

A party cannot be charged with one crime and be convicted of another independent offense; thus, a verdict of guilty of malicious destruction of property is insufficient under a charge of the malicious burning of property; the offense found does not include the offense charged; in such a case it is the right and duty of the trial court to require the jury to return some form of verdict authorized by law, or to report a disagreement. *State v. Sieff*, 54 Mont. 165, 168, 168 Pac. 524.

reference to the presence or absence of circumstances of aggravation. *State v. Hliboka*, 31 Mont. 455, 458, 78 Pac. 965, 3 Ann. Cas. 934.

In charging burglary, it is not necessary to allege in the information the time of the entry, but the jury, if they convict, must find the degree in accordance with this section. *State v. Copenhaver*, 35 Mont. 342, 344, 89 Pac. 61; *State v. Mish*, 36 Mont. 168, 175, 92 Pac. 459, 122 Am. St. Rep. 343.

Where a specific crime is divided into degrees, it is sufficient to charge the commission of the substantive offense; it is then made the duty of the jury to determine from the evidence the particular degree of the crime of which the accused is guilty, if guilt is shown. *State v. Wiley*, 53 Mont. 383, 386, 164 Pac. 84.

12023. Jury may find upon charge of previous conviction. Whenever the fact of a previous conviction of another offense is charged in an indictment or information, the jury, if they find a verdict of guilty of the offense with which he is charged, must also, unless the answer of the defendant admits the charge, find whether or not he has suffered such previous conviction. The verdict of the jury upon a charge of previous conviction may be: "We find the charge of previous conviction true," or, "we find the charge of previous conviction not true," as they find that the defendant has or has not suffered such conviction.

History: En. Sec. 2146, Pen. C. 1895; re-en. Sec. 9325, Rev. C. 1907. Cal. Pen. C. Sec. 1158.

A judgment that defendant "be imprisoned in the state prison for the term of ten years, five years upon the conviction for assault in the second degree, and five years for the prior conviction of a felony as by the statute made and provided," is not void as to the five years for former conviction. *State v. Connors*, 27 Mont. 227, 228, 70 Pac. 715.

For a mere informality in the wording of

a verdict finding the defendant guilty of robbery and also "guilty of prior convictions," instead of following the language of this section and saying "We find the charge of previous conviction true," the judgment of conviction will not be reversed, since this provision is directory only, and the verdict in question substantially conformed to it. *State v. Gordon*, 35 Mont. 458, 465, 90 Pac. 173; *State v. Paisley*, 36 Mont. 237, 248, 92 Pac. 566.

In an information charging, among other things, a prior conviction of an offense in another state which, in this state,

is punishable by imprisonment in the state prison, it is unnecessary to allege the facts constituting the crime in the foreign state, and it is immaterial whether the offense

for which defendant is alleged to have been previously convicted in the sister state is a felony there. *State v. Paisley*, 36 Mont. 237, 247, 92 Pac. 566.

12024. Jury may convict of lesser offense, or of attempt. The jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense.

Related section: 11590.

History: En. Sec. 2147, Pen. C. 1895; re-en. Sec. 9326, Rev. C. 1907. Cal. Pen. C. Sec. 1159.

Where the defendant was specifically charged with burglary in the night-time, constituting the first degree of the offense of burglary, the jury could not convict him of the crime in the second degree, as having been committed in the daytime, since the former does not include the latter, and inasmuch as the defendant need only meet the accusation as made, and not

another and a different one, and the prosecution is held to proof of the charge as set out in the information. *State v. Copenhaver*, 35 Mont. 342, 345, 89 Pac. 61.

An information charging murder, when stripped of the terms conveying the idea of deliberation, premeditation, and malice, sufficiently charges manslaughter, and the accused may be found guilty of the lesser offense. *State v. Crean*, 43 Mont. 47, 53, 114 Pac. 603, Ann. Cas. 1912C, 424.

Murder in the first degree includes manslaughter. *State v. Crean*, 43 Mont. 47, 53, 114 Pac. 603, Ann. Cas. 1912C, 424.

12025. Verdict as to some defendants, new trial as to others. On an indictment or information against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the others may be tried by another jury.

History: En. Sec. 2148, Pen. C. 1895; re-en. Sec. 9327, Rev. C. 1907. Cal. Pen. C. Sec. 1160.

12026. To ascertain value of property. When the indictment or information charges an offense against the property of another, by robbery, larceny, burglary, fraud, or the like, the jury, on conviction, must ascertain and declare in their verdict the value of the property taken, embezzled, or received, and the amount restored, if any, and the value thereof; but their failure to do so does not affect the validity of their verdict.

History: En. Sec. 197, p. 247, Bannack 1879; re-en. Sec. 343, 3d Div. Comp. Stat. Stat.; re-en. Sec. 342, p. 241, Cod. Stat. 1887; amd. Sec. 2149, Pen. C. 1895; re-en. 1871; re-en. Sec. 342, 3d Div. Rev. Stat. Sec. 9328, Rev. C. 1907.

12027. Jury may assess punishment. In all cases of a verdict of conviction for any offense, when by law there is any alternative or discretion in regard to the kind or extent of punishment to be inflicted, the jury may assess and declare the punishment in their verdict; and the court must render a judgment according to such verdict, except as hereinafter provided.

History: En. Sec. 198, p. 247, Bannack Stat.; re-en. Sec. 343, p. 241, Cod. Stat. 1871; re-en. Sec. 343, 3d Div. Rev. Stat. 1879; re-en. Sec. 344, 3d Div. Comp. Stat. 1887; re-en. Sec. 2150, Pen. C. 1895; re-en. Sec. 9329, Rev. C. 1907.

Cited or applied as section 2150, Penal Code, in *State v. Mish*, 36 Mont. 168, 177, 92 Pac. 459; as section 9329, Revised Codes, in *In re Gomez*, 52 Mont. 189, 190, 156 Pac. 1078, 122 Am. St. Rep. 343.

12028. Court may assess punishment. When a jury find a verdict of guilty, and fail to agree on the punishment to be inflicted, or do not declare such punishment by their verdict, or assess a punishment not

authorized by law, and in all cases of judgment by confession, the court must assess and declare the punishment, and render judgment accordingly.

History: En. Sec. 199, p. 247, Bannack Stat.; re-en. Sec. 344, p. 241, Cod. Stat. 1871; re-en. Sec. 344, 3d Div. Rev. Stat. 1879; re-en. Sec. 345, 3d Div. Comp. Stat. 1887; re-en. Sec. 2151, Pen. C. 1895; re-en. Sec. 9330, Rev. C. 1907.

This section is applicable to those cases only, excepting judgments rendered upon pleas of guilty, wherein the jury have made every finding necessary to enable them to fix the punishment, but cannot agree upon the extent of it within the limitations prescribed by the statutes. In such cases, if they fail or neglect to fix it, the court may declare it, but not otherwise. *State v. Mish*, 36 Mont. 168, 177, 92 Pac. 459, 122 Am. St. Rep. 343.

An error made by the trial court in the imposition of sentence for crime may be corrected by it. In *re Lewis*, 51 Mont. 539, 154 Pac. 713.

The statute empowering the trial judge to assess the punishment, when the jury has failed to agree thereon, though convicting the accused party, applies also when the attempt by the jury to fix the punishment has been unsuccessful through its omitting the minimum, after stating the maximum number of years, it would have the party imprisoned. In *re Gomez*, 52 Mont. 189, 191, 156 Pac. 1078.

Cited or applied as section 2151, Penal Code, in *State v. Connors*, 27 Mont. 227, 228, 70 Pac. 715.

12029. Same. If the jury assess a punishment, whether of imprisonment or fine, below the limit prescribed by law, for the offense of which the defendant is convicted, the court must pronounce sentence and render judgment according to the lowest limit prescribed by law in such case.

Related section: 12021.

History: En. Sec. 200, p. 248, Bannack Stat.; re-en. Sec. 345, p. 241, Cod. Stat. 1871; re-en. Sec. 345, 3d Div. Rev. Stat.

1879; re-en. Sec. 346, 3d Div. Comp. Stat. 1887; re-en. Sec. 2152, Pen. C. 1895; re-en. Sec. 9331, Rev. C. 1907.

12030. Same. If the jury assess a punishment, whether of imprisonment or fine, greater than the highest limit declared by law, for the offense of which they convict the defendant, the court must disregard the excess, and pronounce sentence, and render judgment according to the highest limit prescribed by law in the particular case.

History: En. Sec. 201, p. 248, Bannack Stat.; re-en. Sec. 346, p. 241, Cod. Stat. 1871; re-en. Sec. 346, 3d Div. Rev. Stat. 1879; re-en. Sec. 347, 3d Div. Comp. Stat. 1887; re-en. Sec. 2153, Pen. C. 1895; re-en. Sec. 9332, Rev. C. 1907.

Cited or applied as section 9332, Revised Codes, in *re Lewis*, 51 Mont. 539, 154 Pac. 713.

12031. Court may reduce verdict. The court has power in all cases of conviction to reduce the extent or duration of the punishment assessed by a jury, if, in its opinion, the conviction is proper, and the punishment assessed is greater than, under the circumstances of the case, ought to be inflicted.

History: En. Sec. 202, p. 248, Bannack Stat.; re-en. Sec. 347, p. 241, Cod. Stat. 1871; re-en. Sec. 347, 3d Div. Rev. Stat.

1879; re-en. Sec. 348, 3d Div. Comp. Stat. 1887; re-en. Sec. 2154, Pen. C. 1895; re-en. Sec. 9333, Rev. C. 1907.

12032. Polling jury. When a verdict is rendered, the jury may be polled, at the request of either party, in which case they must be severally asked whether it is their verdict, and if any one answer in the negative, the jury must be sent out for further deliberation, and in case of misdeemeanors if more than one-third so answer.

History: Ap. p. Sec. 334, p. 240, Cod. Stat. 1871; re-en. Sec. 334, 3d Div. Rev. Stat. 1879; re-en. Sec. 335, 3d Div. Comp.

Stat. 1887; en. Sec. 2155, Pen. C. 1895; re-en. Sec. 9334, Rev. C. 1907. Cal. Pen. C. Sec. 1163.

12033. Juror in contempt. A juror who does not dissent to the verdict, when the same is read to him by the clerk, if such is not his verdict, is guilty of contempt of court.

History: En. Sec. 335, p. 240, Cod. Stat. 1887; amd. Sec. 2156, Pen. C. 1895; re-en. 1871; re-en. Sec. 335, 3d Div. Rev. Stat. Sec. 9335, Rev. C. 1907. 1879; re-en. Sec. 336, 3d Div. Comp. Stat.

12034. Defendant, when to be discharged. If judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given, except where the acquittal is because of a variance between the pleading and proof, which may be obviated by a new indictment or information, the court may order his detention, to the end that a new indictment or information may be preferred, in the same manner and with like effect as provided in section 11994.

History: En. Sec. 2157, Pen. C. 1895; re-en. Sec. 9336, Rev. C. 1907. Cal. Pen. C. Sec. 1165.

12035. Proceedings upon conviction. If a verdict is rendered against the defendant, he must be remanded, if in custody, or if on bail, must be committed to the proper officer of the county to await the judgment of the court upon the verdict. When committed, his bail is exonerated, or if money is deposited instead of bail, it must be refunded to the defendant.

History: Ap. p. Sec. 337, p. 240, Cod. Stat. 1887; en. Sec. 2158, Pen. C. 1895; Stat. 1871; re-en. Sec. 337, 3d Div. Rev. re-en. Sec. 9337, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 338, 3d Div. Comp. Sec. 1166.

12036. Proceedings on acquittal on ground of insanity. If the jury render a verdict of acquittal on the ground of insanity, the court may order a jury to be summoned from the jury list of the county, to inquire whether the defendant continues to be insane. The court may cause the same witnesses to be summoned who testified on the trial, and other witnesses, and direct the county attorney to conduct the proceedings, and counsel may appear for the defendant. The court may direct the sheriff to take the defendant and retain him in custody until the question of continuing insanity is determined. If the jury find the defendant insane, he shall be committed by the sheriff to the state insane asylum. If the jury find the defendant sane, he shall be discharged.

History: En. Sec. 2159, Pen. C. 1895; re-en. Sec. 9338, Rev. C. 1907. Cal. Pen. C. Sec. 1167.

CHAPTER 28.

BILLS OF EXCEPTION.

Section 12037. In What Cases.

- 12038. Exceptions to Decision of Court by Either Party.
- 12039. Exceptions to Decision of Court by the Defendant.
- 12040. Exceptions, How Settled, by Supreme Court.
- 12041. Exceptions in Criminal Trials—When Not Necessary.
- 12042. What Bill of Exceptions to Contain.
- 12043. Written Charges, etc., Need Not Be Excepted To.
- 12044. Settlement of Bills of Exceptions.
- 12045. Record on Appeal in Criminal Cases.

12037. In what cases. On the trial of an indictment or information exceptions may be taken by the defendant to a decision of the court—

1. In disallowing a challenge to the panel of the jury, or to an individual juror for implied bias;
2. In admitting or rejecting testimony on the trial of a challenge to a juror for actual bias;
3. In admitting or rejecting testimony, or in deciding any question of law not a matter of discretion, or in charging or instructing the jury upon the law on the trial of the issue.

History: En. Sec. 2170, Pen. C. 1895;
re-en. Sec. 9339, Rev. C. 1907. Cal. Pen. C.
Sec. 1170.

ing, but not in sustaining, a challenge to
an individual juror for implied bias. State
v. Jones, 32 Mont. 442, 450, 80 Pac. 1095.

An exception is allowed, under this sec-
tion, to the action of the court in overrul-

Cited or applied as section 2170, Penal
Code, in State v. Tighe, 27 Mont. 327, 329,
71 Pac. 3.

12038. Exceptions to decision of court by either party. The decision of a court or judge upon a matter of law is deemed excepted to by either party in the following cases:

1. In granting or refusing a motion to set aside an indictment or information.
2. In allowing or disallowing a demurrer to an indictment or information.
3. In granting or refusing a motion in arrest of judgment.
4. In granting or refusing a motion for a new trial.
5. In making, or refusing to make, an order after judgment affecting any substantial right of the parties.

History: En. Sec. 2172, Pen. C. 1895;
re-en. Sec. 9341, Rev. C. 1907. Cal. Pen. C.
Sec. 1172.

Cited or applied as section 2172, Penal
Code, in State v. Kremer, 34 Mont. 6, 8,
85 Pac. 736.

12039. Exceptions to decision of court by the defendant. The decision of the court or judge upon a matter of law is deemed excepted to by the defendant in the following cases:

1. In refusing to grant a motion for a change of place of trial.
2. In refusing to postpone the trial on motion of the defendant.

History: En. Sec. 2173, Pen. C. 1895;
re-en. Sec. 9342, Rev. C. 1907. Cal. Pen. C.
Sec. 1173.

Cited or applied as section 2173, Penal
Code, in State v. Kremer, 34 Mont. 6, 8,
85 Pac. 736.

12040. Exceptions, how settled, by supreme court. If the judge in any case refuse to allow an exception in accordance with the facts, the party desiring the bill settled may apply by petition to the supreme court to prove the same, the application may be made in the mode and manner, and under such regulations as the court may prescribe; and the bill, when proven, must be certified by the chief justice as correct, and filed with the clerk of the court in which the action was tried, and when so filed, it has the same force and effect as if settled by the judge who tried the cause. If the judge who presided at the trial ceases to hold office before the bill is tendered or settled, he may nevertheless settle such bill, or the party may, as provided in this section, apply to the supreme court to prove the same.

History: En. Sec. 2174, Pen. C. 1895;
re-en. Sec. 9343, Rev. C. 1907.

defendant has obtained upon his own motion.
Territory v. Hart, 7 Mont. 489, 496, 17
Pac. 718; State v. Thompson, 10 Mont. 549,
562, 27 Pac. 349.

The plea of former jeopardy cannot be
maintained to a second trial which a de-

12041. Exceptions in criminal trials—When not necessary. On trial of an indictment or information it shall not be necessary to ask for or note an exception to any of the rulings or decisions of the trial court or judge upon matters enumerated in sections 12037, 12038 and 12039 of this code, but nothing herein contained shall be deemed to dispense with the necessity for making objections nor to dispense with the making and settlement of bills of exceptions in the manner provided by law. This act shall not affect the procedure prescribed by section 11969 of this code, relating to the settlement of instructions, save that no exception need be noted to any instruction nor to any order of the court relating thereto.

History: En. Sec. 15, Ch. 225, L. 1921.

12042. What bill of exceptions to contain. A bill of exceptions must contain so much of the evidence only as is necessary to present the question of law upon which the exceptions were taken; and the judge must, upon the settlement of the bill, whether agreed to by the parties or not, strike out all other matters contained therein.

History: En. Sec. 2175, Pen. C. 1895; re-en. Sec. 9344, Rev. C. 1907. Cal. Pen. C. Sec. 1175.

12043. Written charges, etc., need not be excepted to. When written charges have been presented, given, or refused, the questions presented in such charges, or in any of the instructions given to the jury, need not be excepted to or embodied in a bill of exceptions, but the written charges and instructions, with the indorsements showing the action of the court, form part of the record, and any error in the decision of the court thereon may be taken advantage of on appeal, in like manner as if presented in a bill of exceptions. The decision of the court or judge upon any matters of law mentioned in sections 12038 and 12039 of this code is deemed excepted to, and no bill of exceptions is required.

History: En. Sec. 2176, Pen. C. 1895; re-en. Sec. 9345, Rev. C. 1907. Cal. Pen. C. Sec. 1176.

Where the indorsements on instructions, "given," "refused," or "modified," were not made at the time of the trial, they may be identified subsequently by an entry ordered to be made in the minutes. *State v. Lucey*, 24 Mont. 295, 305, 61 Pac. 994.

An instruction which is erroneous under any and every conceivable state of facts may be reviewed on appeal from the judgment on the judgment-roll though the record contains no evidence. *State v. Mason*, 24 Mont. 340, 61 Pac. 861.

Cited or applied as section 2176, Penal Code, in *State v. Kremer*, 34 Mont. 6, 8, 85 Pac. 736.

12044. Settlement of bills of exceptions. No bill of exceptions need be prepared or settled while the motion for a new trial is pending, but the same shall be prepared and settled in the same manner and within the same time after the decision of the court on the motion for a new trial as is hereinafter provided for the preparation and settlement of bills of exception after judgment; except as above provided, whenever a party desires to have a bill of exceptions settled he must prepare a draft of a proposed bill and present the same, upon notice of at least two days to the adverse party, to the judge for settlement, within ten days after the order or ruling excepted to is made, or within ten days after judgment has been rendered against him, unless further time is granted by the judge of the district court or by a justice of the supreme court, or within that period the draft must, upon such

notice of at least two days, be delivered to the clerk of the district court for the judge. When received by the clerk he shall deliver it, together with any amendments proposed or objections thereto, to the judge or transmit it to the judge with such amendments and objections, as soon as may be, and, when settled, the bill must be signed by the judge and filed as part of the record of the case.

History: En. Sec. 1, Ch. 34, L. 1903; re-en. Sec. 9346, Rev. C. 1907; amd. Sec. 15A, Ch. 225, L. 1921.

The original and first amended informations, and demurrers to them which were sustained, and a motion to dismiss the prosecution, and order overruling it, were not a part of the appeal record, where they were not embodied in the bill of exceptions. *State v. Stickney*, 29 Mont. 523, 526, 75 Pac. 201.

The giving of at least two days' notice to the adverse party of the draft of a proposed bill of exceptions is an indispensable prerequisite to the consideration of the bill by the supreme court, and the record must show affirmatively the fact of the giving of such notice. *State v. Kremer*, 34 Mont. 6, 9, 85 Pac. 736. See, also, *State v. Morrison*, 34 Mont. 75, 78, 85 Pac. 738; *State v. Lee*, 34 Mont. 584, 586, 87 Pac. 977.

The provisions of this section, relating to the settlement of bills of exceptions in criminal cases, are mandatory. *State v. Kremer*, 34 Mont. 6, 9, 85 Pac. 736.

Delivery of a copy of a proposed bill of exceptions to the county attorney does not meet the requirements of this section relative to notice of at least two days to the adverse party prior to delivery of such bill to the judge for settlement. *State v. Kremer*, 34 Mont. 6, 10, 85 Pac. 736.

Alleged error on the part of the district court in refusing to hear evidence, offered by defendant in a criminal prosecution upon his challenge to the jury panel, will not be reviewed on appeal unless presented by bill of exceptions. *State v. Gordon*, 35 Mont. 458, 462, 90 Pac. 173.

An objection to the form in which a prior conviction is pleaded in an information can only be raised by demurrer, which in turn, in order to be reviewable on appeal, must be presented by a bill of exceptions. *State v. Gordon*, 35 Mont. 458, 462, 90 Pac. 173.

Cited or applied as section 9346, Revised Codes, in *State v. Lewis*, 52 Mont. 495, 501, 159 Pac. 415.

12045. Record on appeal in criminal cases. The record on appeal in a criminal case shall consist of the judgment-roll as defined in section 12074 of this code, a copy of the notice of appeal and all bills of exceptions settled and filed in the case. Whenever a motion for a new trial has been made and overruled, the party appealing from the judgment shall, in lieu of a bill of exceptions, be permitted to use a transcript of the minutes of the court prepared and certified in the same manner provided by section 9402 of these codes, governing civil practice, or he may prepare and have settled bill of exceptions in the manner provided by the preceding section.

History: En. Sec. 2, Ch. 34, L. 1903; re-en. Sec. 9347, Rev. C. 1907; amd. Sec. 16, Ch. 225, L. 1921.

There is not any such thing recognized by the law of this state as a statement on motion for a new trial in a criminal case. *State v. Kremer*, 34 Mont. 6, 8, 85 Pac. 736.

The only manner of reviewing an order granting or refusing a new trial in a criminal case is upon a bill of exceptions incorporating the matters upon which it is based. *State v. Kremer*, 34 Mont. 6, 9, 85 Pac. 736.

Where the state appeals from an order sustaining a demurrer to an information, it must present the information, with the demurrer and the trial court's ruling thereon, in a bill of exceptions duly settled and allowed, else the supreme court is without jurisdiction to entertain the appeal. *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

Cited or applied as section 2, chapter 34, Laws of 1903, in *State v. Stickney*, 29 Mont. 523, 526, 75 Pac. 201; as section 9347, Revised Codes, in *State v. Lewis*, 52 Mont. 495, 501, 159 Pac. 415.

CHAPTER 29.

NEW TRIALS.

- Section 12046. New Trial Defined.
 12047. Its Effect.
 12048. In What Cases It May Be Granted.
 12049. Applications for, How Made.
 12050. Motions for New Trial, How Made—Hearing.

12046. New trial defined. A new trial is a re-examination of the issue in the same court, before another jury, after a verdict has been given.

History: En. Sec. 2190, Pen. C. 1895; Cited or applied as section 2190, Penal re-en. Sec. 9348, Rev. C. 1907. Cal. Pen. C. Code, in State v. Landry, 29 Mont. 218, Sec. 1179. 220, 74 Pac. 418.

12047. Its effect. The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew, and the former verdict cannot be used or referred to either in evidence or in argument, or be pleaded in bar of any conviction which might have been had under the indictment or information.

History: Ap. p. Sec. 352, p. 242, Cod. Cited or applied as section 2191, Penal Stat. 1871; re-en. Sec. 352, 3d Div. Rev. Code, in State v. O'Brien, 19 Mont. 6, 47 Stat. 1879; re-en. Sec. 353, 3d Div. Comp. Pac. 103. Stat. 1887; en. Sec. 2191, Pen. C. 1895; re-en. Sec. 9349, Rev. C. 1907. Cal. Pen. C. Sec. 1180.

12048. In what cases it may be granted. When a verdict has been rendered against the defendant, the court may, upon his application, grant a new trial in the following cases only:

1. When the trial has been had in his absence, if the indictment or information is for a felony.

2. When the jury has received out of court any evidence other than that resulting from a view of the premises, or any communication, document or paper referring to the case.

3. When the jury has separated without leave of the court, after retiring to deliberate upon their verdict, or been guilty of any misconduct by which a fair and due consideration of the case has been prevented.

4. When the verdict has been decided by lot, or by any means other than a fair expression of opinion on the part of all the jurors, which may be shown as provided in the Code of Civil Procedure.

5. When the court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial.

6. When the verdict is contrary to law or evidence.

7. When new evidence is discovered material to the defendant and which he could not, with reasonable diligence, have discovered and produced at the trial.

When a motion for a new trial is made upon the ground of newly-discovered evidence, the defendant must produce at the hearing, in support thereof, the affidavits of the witnesses by whom such evidence is expected to be given, and if time is required by the defendant to procure such affidavits, the court may postpone the hearing of the motion for such length of time as, under all the circumstances of the case, may seem reasonable.

History: Ap. p. Sec. 253, p. 242, Cod. Stat. 1879; amd. Sec. 1, p. 43, L. 1881; Stat. 1871; re-en. Sec. 353, 3d Div. Rev. re-en. Sec. 354, 3d Div. Comp. Stat. 1887;

en. Sec 2192, Pen. C. 1895; re-en. Sec. 9350, Rev. C. 1907. Cal. Pen. C. Sec. 1181.

Under a statute providing that a new trial shall be granted "when the jury has received any evidence, papers, or documents, not authorized by the court," the word "papers" refers to such written instruments as might be competent testimony when inspected by the court, and found to be competent under the rules of evidence, and does not include newspapers; and the reception by the jury of newspapers containing comments on the case does not, in itself, vitiate the verdict. *State v. Jackson*, 9 Mont. 508, 520, 24 Pac. 213.

Under a statute providing that a new trial shall be granted "when the jury has been separated without leave of court, or have been guilty of any misconduct, tending to prevent a fair and due consideration of the case," the reception by the jury of newspapers, containing comments on the trial adverse to the defendant, is misconduct tending to show injury to the defendant. *State v. Jackson*, 9 Mont. 508, 522, 24 Pac. 213. See, also, *State v. Pepo*, 23 Mont. 473, 479, 59 Pac. 721.

Exhibits introduced in evidence in a prosecution for murder which are sent to the jury during their retirement will not be considered as having been received out of court, where it is found on motion for new trial that counsel for defendant consented that they might be taken to the jury room during their retirement. *State v. Allen*, 23 Mont. 118, 57 Pac. 725.

Where a motion to set aside an information was made in the trial court, on the ground that it was not properly subscribed by the county attorney, and improperly refused, the error can be reviewed only on appeal from the judgment; it cannot be reviewed on an appeal from an order granting a new trial, not being one of the grounds for new trial enumerated in this section. *State v. Schnepel*, 23 Mont. 523, 528, 59 Pac. 927.

The failure of the county attorney or the attorney prosecuting to properly subscribe the information is not ground for a new trial. *State v. Schnepel*, 23 Mont. 523, 528, 59 Pac. 927.

The fact that a juror, when sworn, was biased and prejudiced against the defendant, which fact he concealed upon his voir dire examination, and which neither defendant nor his counsel discovered until after verdict, was ground for a new trial under this section. *State v. Mott*, 29 Mont. 292, 295, 74 Pac. 728.

This statute is not unconstitutional as not granting to the accused in a criminal prosecution a "trial by an impartial jury." *State v. Mott*, 29 Mont. 292, 300, 74 Pac. 728.

While it is imperative that the accused shall have a trial by an impartial jury, nevertheless, after verdict, error will not

be presumed, and it is incumbent on the accused to make it appear affirmatively that he is entitled to a new trial by reason of having been deprived of this constitutional right; mere possibility, or even probability, that one of the jurors was incompetent, is not sufficient to overthrow the verdict. *State v. Mott*, 29 Mont. 292, 307, 74 Pac. 728.

The fact that jurors may impeach their own verdict when it has been decided by lot under this section, excludes all other exceptions to the general rule that jurors will not be heard to impeach their own verdict. *State v. Beesskove*, 34 Mont. 41, 51, 85 Pac. 376; *State v. O'Brien*, 35 Mont. 482, 503, 90 Pac. 514, 10 Ann. Cas. 1006; *State v. Lowry*, 39 Mont. 462, 471, 104 Pac. 545; *State v. Wakely*, 43 Mont. 427, 437, 117 Pac. 95; *State v. Lewis*, 52 Mont. 495, 504, 159 Pac. 415.

The affidavits of two jurors, filed in aid of a motion for new trial by defendant in a prosecution for murder, in which both stated that they had misunderstood the instructions of the court, which clearly charged the jury that they could find the accused guilty of any grade of unlawful homicide or acquit him, in that from a reading of them they were under the impression that the jury was required to either find the defendant guilty of murder in the first degree or acquit him, and that, being unwilling to acquit, they voted for murder in the first degree rather than declare him innocent, did not show such misconduct on the part of the jury as to entitle defendant to a new trial. *State v. Beesskove*, 34 Mont. 41, 51, 85 Pac. 376.

The expression, "the verdict is contrary to the evidence," has been held to mean the same thing as the expression, "insufficiency of the evidence to justify the verdict." *Flaherty v. Butte Electric Ry. Co.*, 42 Mont. 89, 93, 111 Pac. 348; *State v. Schoenborn*, 55 Mont. 517, 520, 189 Pac. 294.

Except in cases where it has been reached by means other than a fair expression of opinion by all the jurors, their verdict cannot be impeached by the affidavit of one or more of the individuals composing the jury. *State v. Lewis*, 52 Mont. 495, 504, 159 Pac. 415.

A new trial will not be granted on the ground of newly discovered evidence when the persons from whom the evidence is expected decline to make affidavits that they can give it. *State v. Gaimos*, 53 Mont. 118, 128, 162 Pac. 596.

A defendant in a criminal case who has been convicted is not required to show an entire absence of evidence of some fact necessary to make out a case, in order to secure a new trial; but if he can convince the district court that the evidence in its entirety is insufficient in weight to justify the verdict, he is entitled to a new trial.

State v. Schoenborn, 55 Mont. 517, 520, 189 Pac. 294.

The district court has authority to grant a motion for a new trial upon the ground that the verdict is contrary to the evidence without reference to the fact that a different judge may preside at the hearing of the motion, from the one who presided at the trial. State v. Schoenborn, 55 Mont. 517, 519, 179 Pac. 294.

Upon appeal from an order granting or denying a motion for a new trial, the supreme court sits as a court of error and review, not as a court of original jurisdiction, or as an appellate court that is clothed with authority to try the motion de novo. State v. Schoenborn, 55 Mont. 517, 520, 179 Pac. 294.

An affidavit of one of defendant's attorneys in support of a motion for new trial asked because of newly discovered evidence, to the effect that he could not with reasonable diligence have discovered the

affidavits of five persons who claimed to have been present at the place where the alleged assault occurred and whose testimony would tend to contradict the state's witnesses or corroborate appellant's version of the affray "and presented same upon the trial," was insufficient to show abuse of the court's discretion in denying the motion. State v. Prlja, 57 Mont. 461, 189 Pac. 64.

Cited or applied as section 2192, Penal Code, in State v. Gawith, 19 Mont. 48, 47 Pac. 207; Sutton v. Lowry, 39 Mont. 462, 471, 104 Pac. 545.

Improper denial of challenge to juror for cause as ground for new trial where injured party has exhausted his peremptory challenges, see note in 9 Ann. Cas. 279; Ann. Cas. 1915D, 97.

Power of appellate court to grant new trial on account of newly discovered evidence, see note in 19 Ann. Cas. 508.

12049. Applications for, how made. The application for a new trial must be made upon written notice of motion, and, if based upon any of the grounds mentioned in the subdivisions 2, 3, 4, and 7, of the preceding section, such written notice of motion must be filed within thirty days after the discovery of the facts upon which the party relies in support of his motion; in all other cases notice of motion must be filed within ten days after the rendition of the verdict.

History: En. Sec. 1, p. 43, L. 1881; amd. Sec. 2193, Pen. C. 1895; re-en. Sec. re-en. Sec. 353, 3d Div. Comp. Stat. 1887; 9351, Rev. C. 1907.

12050. Motions for new trial, how made—Hearing. A motion for a new trial, if made for any of the causes mentioned in the first, second, third, fourth, or fifth subdivision of section 12048 of this code, must be made upon affidavits which must be filed at the same time as the notice of motion or within such further time, not exceeding thirty days thereafter, as may be allowed by the court or judge; in all other cases the motion must be made upon the minutes of the court. The official stenographic report of trials may be referred to as a part of the minutes of the court. The notice of motion must designate the grounds upon which the motion will be made. A motion for new trial must be heard upon the second day after notice is filed, or as soon as practicable thereafter, and in all cases the court or judge may, in his discretion, make an order staying further proceedings in the case until such motion is disposed of.

History: En. Sec. 1, p. 43, L. 1881; re-en. Sec. 356, 3d Div. Comp. Stat. 1887; amd. Sec. 2194, Pen. C. 1895; re-en. Sec. 9352, Rev. C. 1907; amd. Sec. 17, Ch. 225, L. 1921.

An alleged error in an instruction will not be reviewed on appeal where the only ground designated is that the verdict is contrary to law and evidence. State v. Gawith, 19 Mont. 48, 47 Pac. 207.

The notice of motion for a new trial in a criminal case need not state whether the motion will be based on affidavits or a bill of exceptions; and the statement therein of the grounds on which the motion will be made is notice of what will be the basis of the motion. State v. Landry, 29 Mont. 218, 220, 74 Pac. 418.

Cited or applied as section 2194, Penal Code, in State v. Shadwell, 22 Mont. 559, 57 Pac. 281.

CHAPTER 30.

ARREST OF JUDGMENT.

- Section 12051. Motion in Arrest of Judgment.
 12052. Court May Arrest Judgment Without Motion.
 12053. Effect of Arresting Judgment.
 12054. Defendant, When to Be Held or Discharged.

12051. Motion in arrest of judgment. A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty, or on a verdict against the defendant, on a plea of a former conviction or acquittal. It may be founded on any of the defects in the indictment or information mentioned in section 11898 of this code, unless the objection has been waived by a failure to demur, and must be made before or at the time the defendant is called for judgment.

History: Ap. p. Sec. 238, p. 253, Bannack Stat.; re-en. Sec. 356, p. 243, Cod. Stat. 1871; re-en. Sec. 356, 3d Div. Rev. Stat. 1879; re-en. Sec. 357, 3d Div. Comp. Stat. 1887; en. Sec. 2200, Pen. C. 1895; re-en. Sec. 9353, Rev. C. 1907. Cal. Pen. C. Sec. 1185.

A motion in arrest of judgment must be founded on some defect in the information, and extrinsic evidence cannot be received at a hearing of such motion. *State v. Tulley*, 31 Mont. 365, 371, 78 Pac. 760, 3 Ann. Cas. 824. See *State v. Van*, 44 Mont. 374, 383, 120 Pac. 479; *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

The defendant in a criminal proceeding will be deemed to have waived any objection to the manner in which prior convictions had been pleaded in the information, where it does not appear from the record by bill of exceptions that any demurrer to the information had been interposed. *State v. Gordon*, 35 Mont. 458, 463, 90 Pac. 173.

12052. Court may arrest judgment without motion. The court may also, on its own view of any of these defects, arrest the judgment without motion.

History: En. Sec. 239, p. 253, Bannack Stat.; re-en. Sec. 357, p. 243, Cod. Stat. 1871; re-en. Sec. 357, 3d Div. Rev. Stat. 1879; re-en. Sec. 358, 3d Div. Comp. Stat. 1887; en. Sec. 2201, Pen. C. 1895; re-en.

A motion in arrest lies only for certain defects appearing on the face of the indictment or information, not waived by failure to demur. *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

Resort to evidence extrinsic the information to show that it does not accurately state the facts is not permissible on motion in arrest. *State v. Caterni*, 54 Mont. 456, 458, 171 Pac. 284.

Cited or applied as section 2200, Penal Code, in *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647; *State v. Mjelde*, 29 Mont. 490, 75 Pac. 87; as section 9353, Revised Codes, in *State v. Kanakaris*, 54 Mont. 180, 183, 169 Pac. 42; *State v. Wehr*, 57 Mont. 469, 474, 188 Pac. 930.

Objections to evidence as ground for arrest of judgment, see note in Ann. Cas. 1913E, 72.

Amendment of record to cure defect in indictment for which motion in arrest of judgment has been made, see note in 67 L. R. A. 182.

Sec. 9354, Rev. C. 1907. Cal. Pen. C. Sec. 1186.

Cited or applied as section 9354, Revised Codes, in *State v. Wehr*, 57 Mont. 469, 476, 188 Pac. 930.

12053. Effect of arresting judgment. The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment was found or information filed.

History: En. Sec. 240, p. 253, Bannack Stat.; re-en. Sec. 358, p. 243, Cod. Stat. 1871; re-en. Sec. 358, 3d Div. Rev. Stat. 1879; re-en. Sec. 359, 3d Div. Comp. Stat. 1887; amd. Sec. 2202, Pen. C. 1895; re-en.

Sec. 9355, Rev. C. 1907. Cal. Pen. C. Sec. 1187.

Legal effect of order sustaining motion in arrest of judgment, see note in Ann. Cas. 1912A, 976.

12054. Defendant, when to be held or discharged. If, from the evidence on the trial, there is reason to believe the defendant guilty, and

a new indictment or information can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew, to answer the new indictment or information. If the evidence shows him guilty of another offense, he must be committed or held thereon, and in neither case shall the verdict be a bar to another prosecution. But if no evidence appears sufficient to charge him with any offense, he must, if in custody, be discharged; or if admitted to bail, his bail must be exonerated; or if money has been deposited instead of bail, it must be refunded to the defendant; and the arrest of judgment shall operate as an acquittal of the charge upon which the indictment or information was founded.

History: En. Sec. 2203, Pen. C. 1895; re-en. Sec. 9356, Rev. C. 1907. Cal. Pen. C. Sec. 1188.

CHAPTER 31.

THE JUDGMENT—INDETERMINATE SENTENCE—SUSPENSION OF SENTENCE AND PROBATION.

- Section 12055. Appointing Time for Judgment.
- 12056. Upon Plea of Guilty, Court Must Determine Degree.
- 12057. Presence of Defendant.
- 12058. Defendant in Custody, How Brought for Judgment.
- 12059. How Brought Before the Court When on Bail.
- 12060. Bench-warrant to Issue.
- 12061. Form of Bench-warrant.
- 12062. Warrant, How Served.
- 12063. Arrest of Defendant.
- 12064. Arraignment of Defendant for Judgment.
- 12065. What Cause May Be Shown Against the Judgment.
- 12066. If No Cause Shown, Judgment to Be Pronounced.
- 12067. Circumstances in Aggravation or Mitigation of Punishment.
- 12068. Testimony, How Presented.
- 12069. Duration of Imprisonment on Judgment to Pay a Fine.
- 12070. Prosecutor to Pay Costs.
- 12071. Discharge of Pauper Prisoner.
- 12072. Discharge in Other Cases.
- 12073. Judgment to Pay Fine Constitutes a Lien.
- 12074. Entry of Judgment and Judgment-roll.
- 12075. Indeterminate Sentence.
- 12076. Parole.
- 12077. Effect of Act.
- 12078. Court May Suspend Sentence, When.
- 12079. Persons Not Entitled to Probation.
- 12080. Effect of Suspended Sentence.
- 12081. Blank Forms.
- 12082. Certificate of Judgment, and Order for Suspension.
- 12083. Rules and Regulations.
- 12084. Termination of Probation—Arrest of Prisoner.
- 12085. Final Discharge.
- 12086. Expenses.

12055. Appointing time for judgment. After a plea or verdict of guilty, or after a verdict against the defendant on the plea of a former conviction or acquittal, if the judgment be not arrested or a new trial granted, the court must appoint a time for pronouncing judgment, which, in cases of felony, must be at least two days after the verdict, if the

court intend to remain in session so long; but if not, then at as remote a time as can reasonably be allowed.

History: Ap. p. Sec. 360, p. 244, Cod. Stat. 1871; re-en. Sec. 360, 3d Div. Rev. Stat. 1879; re-en. Sec. 361, 3d Div. Comp. Stat. 1887; en. Sec. 2210, Pen. C. 1895; re-en. Sec. 9357, Rev. C. 1907. Cal. Pen. C. Sec. 1191.

This section means that the defendant is entitled to two days after the verdict is returned before judgment is pronounced, provided the terms of court lasts that long; but, if the term is not to continue for two days after the verdict is returned, then the time for pronouncing judgment shall be postponed to a date as remote as can reasonably be fixed within the then

current term of court. *State v. Lu Sing*, 34 Mont. 31, 40, 85 Pac. 521, 9 Ann. Cas. 344.

When two days did not intervene between the rendition of a verdict of guilty in a capital case, and the pronouncement of judgment, it will be presumed on appeal, in the absence of anything in the record to the contrary, that the court did not remain in session after the date on which the judgment was pronounced. *State v. Lu Sing*, 34 Mont. 31, 40, 85 Pac. 521, 9 Ann. Cas. 344.

Cited or applied as section 9357, Revised Codes, in *Hosoda v. Neville*, 45 Mont. 310, 312; 123 Pac. 20.

12056. Upon plea of guilty, court must determine degree. Upon a plea of guilty of a crime distinguished or divided into degrees, the court must, before passing sentence, determine the degree.

History: En. Sec. 2211, Pen. C. 1895; re-en. Sec. 9358, Rev. C. 1907. Cal. Pen. C. Sec. 1192.

In the absence of testimony, it will be presumed on appeal that the trial court, in a burglary case, had evidence before it

justifying a finding that, if guilty at all, the defendant was guilty of an attempt to commit burglary in the night-time, which constitutes the first degree of the offense, and that the punishment inflicted was proper. *State v. Mish*, 36 Mont. 168, 175, 92 Pac. 459, 122 Am. St. Rep. 343.

12057. Presence of defendant. For the purpose of judgment, if the conviction is for felony, the defendant must be personally present; if for a misdemeanor, judgment may be pronounced in his absence.

History: En. Sec. 362, p. 244, Cod. Stat. 1871; re-en. Sec. 362, 3d Div. Rev. Stat. 1879; re-en. Sec. 363, 3d Div. Comp. Stat. 1887; amd. Sec. 2212, Pen. C. 1895; re-en. Sec. 9359, Rev. C. 1907. Cal. Pen. C. Sec. 1193.

12058. Defendant in custody, how brought for judgment. When the defendant is in custody, the court may direct the officer in whose custody he is to bring him before it for judgment, and the officer must do so.

History: En. Sec. 208, p. 249, Bannack Stat.; re-en. Sec. 363, p. 244, Cod. Stat. 1871; re-en. Sec. 363, 3d Div. Rev. Stat. 1879; re-en. Sec. 364, 3d Div. Comp. Stat. 1887; amd. Sec. 2213, Pen. C. 1895; re-en. Sec. 9360, Rev. C. 1907. Cal. Pen. C. Sec. 1194.

12059. How brought before the court when on bail. If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear for judgment when his personal appearance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or of the money deposited, may direct the clerk to issue a warrant for his arrest.

History: En. Sec. 2214, Pen. C. 1895; re-en. Sec. 9361, Rev. C. 1907. Cal. Pen. C. Sec. 1195.

12060. Bench-warrant to issue. The clerk, on the application of the county attorney, may, at any time after the order, whether court be sitting or not, issue a warrant into one or more counties.

History: En. Sec. 2215, Pen. C. 1895; re-en. Sec. 9362, Rev. C. 1907. Cal. Pen. C. Sec. 1196.

12061. Form of bench-warrant. The warrant must be substantially in the following form: ".....district, in and for the county of The state of Montana, to any sheriff, constable, marshal, or policeman in this state: A B, having been on the.....day of, A. D. nineteen hundred and....., duly convicted in the district court of the county of....., of the crime of..... (designating it generally), you are therefore commanded forthwith to arrest the above-named A B, and bring him before that court for judgment. Given under my hand, with the seal of said court affixed, this..... day of....., A. D. nineteen hundred and..... By order of the court.

(Seal)

E F, Clerk."

History: En. Sec. 2216, Pen. C. 1895; re-en. Sec. 9363, Rev. C. 1907. Cal. Pen. C. Sec. 1197.

12062. Warrant, how served. The warrant may be served in any county in the same manner as a warrant of arrest, except that when served in another county it need not be indorsed by the magistrate of that county.

History: En. Sec. 2217, Pen. C. 1895; re-en. Sec. 9364, Rev. C. 1907. Cal. Pen. C. Sec. 1198.

12063. Arrest of defendant. Whether the warrant is served in the county in which it was issued or in another county, the officer must arrest the defendant and bring him before the court, or commit him to the officer mentioned in the warrant, according to the command thereof.

History: En. Sec. 2218, Pen. C. 1895; re-en. Sec. 9365, Rev. C. 1907. Cal. Pen. C. Sec. 1199.

12064. Arraignment of defendant for judgment. When the defendant appears for judgment, he must be informed by the court, or by the clerk, under its direction, of the nature of the charge against him, and of his plea, and the verdict, if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him.

History: Ap. p. Sec. 210, p. 249, Bank Stat.; re-en. Sec. 365, p. 245, Cod. Stat. 1871; re-en. Sec. 365, 3d Div. Rev. Stat. 1879; re-en. Sec. 366, 3d Div. Comp. Stat. 1887; en. Sec. 2219, Pen. C. 1895; re-en. Sec. 9366, Rev. C. 1907. Cal. Pen. C. Sec. 1200.

12065. What cause may be shown against the judgment. He may show, for cause against the judgment—

1. That he is insane; and if, in the opinion of the court, there is reasonable ground for believing him to be insane, the question of insanity must be tried as provided in sections 12213 to 12219 of this code. If, upon trial of that question, the jury find that he is sane, judgment must be pronounced, but if they find him insane, he must be committed to the state insane asylum until he becomes sane; and when notice is given of that fact, as provided in section 12218, he must be brought before the court for judgment.

2. That he has good cause to offer, either in arrest of judgment or for a new trial; in which case the court may, in its discretion, order the

judgment to be deferred, and proceed to decide upon a motion in arrest of judgment or for a new trial.

History: En. Sec. 2220, Pen. C. 1895; re-en. Sec. 9367, Rev. C. 1907. Cal. Pen. C. Sec. 1201.

12066. If no cause shown, judgment to be pronounced. If no sufficient cause is alleged or appears to the court why judgment should not be pronounced, it must thereupon be rendered.

History: En. Sec. 211, p. 249, Bannack 1887; re-en. Sec. 2221, Pen. C. 1895; re-en. Stat.; re-en. Sec. 365, p. 245, Cod. Stat. Sec. 9368, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 366, 3d Div. Rev. Stat. 1202. 1879; re-en. Sec. 367, 3d Div. Comp. Stat.

12067. Circumstances in aggravation or mitigation of punishment. After a plea or verdict of guilty, where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the oral suggestion of either party that there are circumstances which may be properly taken into view, either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct.

History: En. Sec. 2222, Pen. C. 1895; re-en. Sec. 9369, Rev. C. 1907. Cal. Pen. C. Sec. 1203.

12068. Testimony, how presented. The circumstances must be presented by the testimony of witnesses examined in open court, except that when a witness is so sick or infirm as to be unable to attend, his deposition may be taken by a magistrate of the county, out of court, upon such notice to the adverse party as the court may direct. No affidavit or testimony, or representation of any kind, verbal or written, can be offered to or received by the court, or a judge thereof, in aggravation or mitigation of punishment, except as provided in this and preceding section.

History: En. Sec. 2223, Pen. C. 1895; re-en. Sec. 9370, Rev. C. 1907. Cal. Pen. C. Sec. 1204.

12069. Duration of imprisonment on judgment to pay a fine. A judgment that the defendant pay a fine and costs may also direct that he be imprisoned until both fine and costs are satisfied, specifying the extent of the imprisonment, which must not exceed one day for every two dollars of the fine and costs.

Related sections: 12072, 12088, 12089.

History: Ap. p. Sec. 212, p. 249, Bannack Stat.; re-en. Sec. 367, p. 245, Cod. Stat. 1871; re-en. Sec. 367, 3d Div. Rev. Stat. 1879; re-en. Sec. 368, 3d Div. Comp. Stat. 1887; en. Sec. 2224, Pen. C. 1895; re-en. Sec. 9371, Rev. C. 1907. Cal. Pen. C. Sec. 1205.

A judgment in a case of misdemeanor, imposing a fine of \$500, and providing that in default of payment the defendant be imprisoned "for the term of one day for each \$2 of said fine," is sufficiently definite and certain to meet the requirements of this section. *State ex rel. Poindexter v. District Court*, 51 Mont. 186, 149 Pac. 958.

Idem. This section held applicable to a case where a fine only is the penalty imposed.

The district court has the power, under this section, to impose a sentence of imprisonment in the county jail for a certain number of days, defendant in addition to pay a fine in a stated amount, and, in default of payment, to stand committed one day for every two dollars of the fine after expiration of the term of imprisonment, until the fine is paid. *In re Londres*, 54 Mont. 418, 170 Pac. 1045.

Cited or applied as section 2224, Penal Code, in *In re Boyle*, 26 Mont. 365, 366, 68 Pac. 409, 68 Pac. 471; *State v. Toconer*, 26 Mont. 339, 345, 67 Pac. 1004.

12070. Prosecutor to pay costs. A judgment that the prosecutor pay the costs may be rendered in cases provided for in this code and execution may issue thereon as in other cases.

History: En. Sec. 2225, Pen. C. 1895; Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004; as section 9372, Revised Codes, in *Griggs v. Glass*, 58 Mont. 476, 481, 193 Pac. 564.

Cited or applied as section 2225, Penal

12071. Discharge of pauper prisoner. When judgment of fine and costs is entered against a defendant, and it is ordered that he be committed until the same are paid, if at any time thereafter the defendant prove to the court, or judge thereof, by his own affidavit or that of any other person, that he is unable to pay such fine and costs, or any part thereof, the court, or judge thereof, may order the sheriff to release him upon his having been confined in jail one day for every two dollars of such fine and costs, or any portion thereof remaining unpaid; but if the defendant do not prove to the satisfaction of the court, or judge thereof, that he is unable to pay such fine and costs, or any part thereof, he shall not be released from confinement, except as hereinafter provided, unless the sheriff has made the same upon execution out of his property.

History: En. Sec. 389, p. 248, Cod. Stat. 1871; re-en. Sec. 389, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 32, L. 1883; re-en. Sec. 390, 3d Div. Comp. Stat. 1887; amd. Sec. 2226, Pen. C. 1895; re-en. Sec. 9373, Rev. C. 1907.

Where the record discloses that a judgment has been rendered under section 12329, the justice of the peace is without

authority to issue an execution provided for by this section even though it is applicable to some extent to practice in the justice courts. *Petelin v. Kennedy*, 29 Mont. 466, 75 Pac. 82.

Cited or applied as section 2226, Penal Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004; as section 9373, Revised Codes, in *State v. District Court et al*, 51 Mont. 186, 190, 149 Pac. 958.

12072. Discharge in other cases. Whenever any defendant is committed to jail for the failure to pay any fine and costs adjudged against him, and has failed to prove to the satisfaction of the court, or judge thereof, that he is unable to pay the same, or any part thereof, the court must order that he be discharged from custody when he has served one day for every two dollars of such fine and costs; but this does not discharge the judgment for fine and costs, which may, at any time thereafter within the time limited by law, be collected upon execution issued thereon.

Related section: 12069.

History: En. Sec. 390, p. 248, Cod. Stat. 1871; re-en. Sec. 390, 3d Div. Rev. Stat. 1879; amd. Sec. 1, p. 33, L. 1883; re-en. Sec. 391, 3d Div. Comp. Stat. 1887; re-en. Sec. 2227, Pen. C. 1895; re-en. Sec. 9374, Rev. C. 1907.

Cited or applied as section 2227, Penal Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004; *Petelin v. Kennedy*, 29 Mont. 466, 75 Pac. 82; as section 9374, Revised Codes, in *State v. District Court et al*, 51 Mont. 186, 189, 149 Pac. 958.

12073. Judgment to pay fine constitutes a lien. A judgment that the defendant pay a fine or costs constitutes a lien upon the real estate of the defendant, which lien dates from the date of the defendant's arrest.

History: En. Sec. 2228, Pen. C. 1895; re-en. Sec. 9375, Rev. C. 1907. Cal. Pen. C. Sec. 1206.

A former statute, containing substantially similar provisions, held constitu-

tional. *Silver Bow County v. Strumbaugh*, 9 Mont. 81, 22 Pac. 453.

Cited or applied as section 2228, Penal Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004.

12074. Entry of judgment and judgment-roll. When judgment upon a conviction is rendered the clerk must enter the same in the minutes,

stating briefly the offense for which the conviction was had, and the fact of a prior conviction (if one), and must, within five days, annex together and file the following papers, which will constitute the judgment-roll:

1. The indictment or information, and a copy of the minutes of the plea or demurrer.
2. A copy of the minutes of the trial.
3. The charges given or refused, and the indorsements thereon.
4. A copy of the judgment.

History: En. Sec. 2229, Pen. C. 1895; re-en. Sec. 9376, Rev. C. 1907; amd. Sec. 18, Ch. 225, L. 1921. Cal. Pen. C. Sec. 1207.

Under subdivision 1 of this section and section 12044, the original and first amended information, and demurrers to them which were sustained, and a motion to dismiss the prosecution, and order overruling it, were not part of the appeal record, where they were not embodied in the bill of exceptions. *State v. Stickney*, 29 Mont. 523, 526, 75 Pac. 201.

The "record of the action" in a criminal case, as defined in this section, cannot be brought up on appeal in the body of a bill of exceptions. *State v. Morrison*, 34 Mont. 75, 79, 85 Pac. 738.

The merits of an appeal in a criminal case will not be considered where the

papers constituting the record are included in a bill of exceptions and not certified as the record, nor identified in any way by the certificate of the clerk of the district court or the trial judge. *State v. Farriss*, 34 Mont. 424, 425, 87 Pac. 177.

Since there was no indeterminate sentence legislation at the time of this conviction, it was not necessary to state in the judgment the degree of burglary of which the defendant was convicted. *State v. Hill*, 46 Mont. 24, 126 Pac. 41.

Cited or applied as section 2229, Penal Code, in *State v. Lucey*, 24 Mont. 295, 305, 61 Pac. 994; *State v. Mason*, 24 Mont. 340, 61 Pac. 861; *State v. Landry*, 29 Mont. 218, 227, 74 Pac. 418; *State v. Gordon*, 35 Mont. 458, 468, 90 Pac. 173; *State v. Paisley*, 36 Mont. 237, 251, 92 Pac. 566; *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

12075. Indeterminate sentence. Whenever, after the passage and approval of this act, any person shall be found guilty of any crime or offense punishable by imprisonment in the state prison, except treason, murder in the first degree, rape by force, or administering poison to a human being with intent to kill, the court must, instead of fixing the punishment at a definite term, provide in the sentence and judgment that the defendant be confined in such prison not less than a certain time nor longer than a certain time, both the minimum and maximum time shall be named in such judgment and such minimum time shall not be longer than one-half of the maximum time named in such judgment, and may be less than such one-half time nor shall it be less than the minimum time named in the law prescribing punishment for such crime or offense, nor shall the maximum time named in such judgment exceed the maximum punishment named in such law; provided, that in any judgment under this act the minimum time shall not be less than six months. In all cases where the punishment is fixed by the jury, the minimum and maximum time to be served shall be set forth in the verdict.

History: En. Sec. 1, Ch. 14, L. 1915; amd. Sec. 1, Ch. 16, L. 1917.

Where the jury found the defendant guilty of assault in the first degree, and, in an endeavor to exercise the discretion vested in them by the indeterminate sentence law, fixed his punishment "at not less than years nor more than ten years" in the state prison, and the judge in pronouncing sentence assessed the pun-

ishment at not less than ten nor more than twenty years, instead of requiring the jury to again retire and supply the omission in their verdict, the writ of habeas corpus did not lie. In *re Gomez*, 52 Mont. 189, 190, 156 Pac. 1078.

One found guilty of crime and sentenced to the state prison for a term not less than seventeen nor more than twenty years, whereas under this section the minimum could not be greater—though it

might be less—than one-half the maximum named in the judgment, is not for that reason entitled to his absolute discharge on writ of habeas corpus, but must be committed for resentence in conformity with the statute. *In re Hughes*, 54 Mont. 153, 167 Pac. 650.

The effect of this chapter is to amend the provisions of the Penal Code relating to terms of imprisonment in the state prison, so as to take from courts and juries the power to fix definite terms, and to impose upon them the mandatory duty to fix in lieu thereof indeterminate sentences in all cases, other than those arising out of the crimes expressly excepted in

section 1 of the act. *In re Collins*, 51 Mont. 215, 152 Pac. 40.

Idem. A judgment in a criminal case fixing defendant's punishment "at no less than two nor more than two years" in the state prison, in conformity with the verdict of the jury, held objectionable as contrary to the spirit and purpose of this section.

Cited or applied as chapter 14, Session Laws of 1915, in *In re Lewis*, 51 Mont. 539, 154 Pac. 713.

Indeterminate sentence as cruel and unusual punishment, see note in *L. R. A.* 1915C, 560.

12076. Parole. Any person receiving an indeterminate sentence as provided in this act may, in the discretion of the governor and state board of prison commissioners, be paroled at any time after he shall have served in such prison one-half of the minimum time specified in such judgment.

History: *En. Sec. 2, Ch. 14, L. 1915; amd. Sec. 2, Ch. 16, L. 1917.*

12077. Effect of act. This act shall not have the effect of repealing or amending the provisions of section 12078 to 12086 of this code, relating to suspending sentences, nor of amending existing laws relating to paroles except that any convict may be paroled after serving one-half of such minimum time in this act provided.

History: *En. Sec. 3, Ch. 14, L. 1915; amd. Sec. 3, Ch. 16, L. 1917.*

12078. Court may suspend sentence, when. In all prosecutions for crimes or misdemeanors, except as hereinafter provided, where the defendant has pleaded or been found guilty, or where the court or magistrate has power to sentence such defendant to any penal or other institution in this state, and it appears that the defendant has never before been imprisoned for crime either in this state or elsewhere (but detention in an institution for juvenile delinquents shall not be considered imprisonment), and where it appears to the satisfaction of the court that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and where it may appear that the public safety does not demand or require that the defendant shall suffer the penalty imposed by law, said court may suspend the execution of the sentence and place the defendant on probation in the manner hereinafter provided. Nothing in this act contained shall in any manner affect the laws providing the method of dealing with the juvenile delinquents.

History: *En. Sec. 1, Ch. 21, L. 1913.*

L. R. A. (N. S.) 242; L. R. A. 1915C, 1169; L. R. A. 1918C, 551.

Power of court to suspend sentence and resentence after suspension, see notes in 8 *Ann. Cas.* 386; 14 *Ann. Cas.* 722; *Ann. Cas.* 1912B, 1192; 33 *L. R. A. (N. S.)* 112; 39

Suspension of sentence for good behavior, and what constitutes "good behavior," see notes in 14 *L. R. A.* 285; *L. R. A. 1918D, 697.*

12079. Persons not entitled to probation. No person convicted of murder, arson, burglary of an inhabited dwelling-house, incest, sodomy,

rape without consent, assault with intent to rape or administering poison shall have the benefit of probation.

History: En. Sec. 2, Ch. 21, L. 1913.

12080. Effect of suspended sentence. Whenever a sentence to any penal or other institution in this state has been imposed, but the execution thereof has been suspended and the defendant placed on probation, the effect of such order of probation shall be to place said defendant under the control and management of the state board of prison commissioners and he shall be subject to the same rules and regulations as applied to persons paroled from said institutions after a period of imprisonment therein.

History: En. Sec. 3, Ch. 21, L. 1913.

12081. Blank forms. It shall be the duty of the state board of prison commissioners to furnish the clerk of courts of each county with blank forms setting forth the requirements and conditions used by them in the parole of prisoners of the several institutions, but amended so as to be applicable to cases of probation.

History: En. Sec. 4, Ch. 21, L. 1913.

12082. Certificate of judgment, and order for suspension. Whenever it is the judgment of the court that the defendant be placed upon probation and under the supervision of the state board of prison commissioners, it shall be the immediate duty of the clerk of said court to make a full copy of the judgment of the court, with the order for the suspension of the execution of sentence thereunder and the reason therefor, and to certify the same to the state board of prison commissioners, and to the institution to which said court would have committed the defendant but for the suspension of sentence. Upon entry in the records of the court of the order for such probation, the defendant shall be released from custody of the court as soon as the requirements and conditions fixed by the state board of prison commissioners have been properly and fully met.

History: En. Sec. 5, Ch. 21, L. 1913.

12083. Rules and regulations. The state board of prison commissioners shall fix the rules and regulations governing all persons who may be released under the powers conferred by this act, and the said rules and regulations shall be administered and enforced by the traveling parole commissioner or his assistants, as directed by said state board of prison commissioners.

History: En. Sec. 6, Ch. 21, L. 1913.

12084. Termination of probation—Arrest of prisoner. Whenever a person placed upon probation, as aforesaid, does not conduct himself in accordance with the rules and regulations, as fixed by the state board of prison commissioners, he shall be subject to arrest without warrant or other process, and shall be conveyed to and confined in the institution to which he would have been committed had he not been placed upon probation, and the said state board of prison commissioners may forthwith terminate the probation of said person and shall forthwith notify the proper officers of said institution. In all cases of such termination

of probation, the original sentence shall be considered as beginning upon the first day of imprisonment in the institution.

History: En. Sec. 7, Ch. 21, L. 1913.

12085. Final discharge. Whenever it is the judgment of the state board of prison commissioners that a person on probation has satisfactorily met the conditions of his probation they shall cause to be issued to said person a final discharge from further supervision; provided, that the length of such period of probation shall not be less than the minimum or more than the maximum term for which he might have been imprisoned.

History: En. Sec. 8, Ch. 21, L. 1913.

12086. Expenses. The expenses incident to the care and supervision of prisoners under the provisions of this act shall be paid out of the proper fund in the same manner as other expenses of the state penal institutions.

History: En. Sec. 9, Ch. 21, L. 1913.

CHAPTER 32.

THE EXECUTION.

- Section** 12087. Execution of a Judgment Other Than of Death.
 12088. If for Fine Alone, Execution to Issue as in Civil Cases.
 12089. Judgment of Fine and Imprisonment, How Executed.
 12090. Judgment of Imprisonment—Duty of Sheriff.
 12091. Power of Officer.
 12092. Sentence to Hard Labor.
 12093. Execution Upon Judgment of Death.
 12094. Judgment of Death, When Suspended.
 12095. Insanity of Defendant, How Determined.
 12096. Duty of County Attorney Upon Inquisition.
 12097. Inquisition, How Certified and Filed.
 12098. Proceedings Upon Finding of Jury.
 12099. Proceedings When Female Is Supposed to Be Pregnant.
 12100. Proceedings Upon the Findings of the Jury.
 12101. Judgment of Death Remaining in Force, Not Executed.
 12102. Punishment of Death, How Inflicted.
 12103. Execution, Where to Take Place and Who to Be Present.
 12104. Return Upon Death Warrant.

12087. Execution of a judgment other than of death. When a judgment, other than of death, has been pronounced, a certified copy of the entry thereof upon the minutes must be forthwith furnished to the officer whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution.

History: En. Sec. 2240, Pen. C. 1895; re-en. Sec. 9377, Rev. C. 1907. Cal. Pen. C. Sec. 1213.

Proceedings in contempt are in their nature criminal, and the order adjudging one in contempt is in its nature a final judgment, but the sheriff cannot execute a judgment in a criminal matter or proceed-

ing "without competent authority," as provided in section 12482; hence, where one has been committed for contempt, and the sheriff does not hold a certified copy of the order of commitment, he is not authorized to detain the person so committed. In re Mettler, 50 Mont. 299, 305, 146 Pac. 747.

12088. If for fine alone, execution to issue as in civil cases. If the judgment is for a fine alone, execution may be issued thereon as on a judgment in a civil action.

Related sections: 12069, 12089.

History: En. Sec. 2241, Pen. C. 1895; re-en. Sec. 9378, Rev. C. 1907. Cal. Pen. C. Sec. 1214.

Cited or applied as section 2241, Penal Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004; as section 9378, Revised Codes, in *In re Londres*, 54 Mont. 418, 419, 170 Pac. 1045.

12089. Judgment of fine and imprisonment, how executed. If the judgment is for imprisonment, or a fine and imprisonment until it be paid, the defendant must forthwith be committed to the custody of the proper officer, and by him detained until the judgment is complied with.

Related sections: 12069, 12088.

History: En. Sec. 2242, Pen. C. 1895; re-en. Sec. 9379, Rev. C. 1907. Cal. Pen. C. Sec. 1215.

An attorney found guilty of contempt was properly subject to punishment by fine and imprisonment until the fine was

paid. *State ex rel. Coleman v. District Court*, 51 Mont. 195, 201, 149 Pac. 973.

Cited or applied as section 2242, Penal Code, in *State v. Towner*, 26 Mont. 339, 346, 67 Pac. 1004; as section 9379, Revised Codes, in *In re Londres*, 54 Mont. 418, 170 Pac. 1045.

12090. Judgment of imprisonment—Duty of sheriff. If the judgment is for imprisonment in the state prison, the sheriff of the county must, upon receipt of a certified copy thereof, take and deliver the defendant to the warden of the state prison. He must also deliver to the warden the certified copy of the judgment, and take from the warden a receipt for the defendant.

History: En. Sec. 2243, Pen. C. 1895; re-en. Sec. 9380, Rev. C. 1907. Cal. Pen. C. Sec. 1216.

the evidence of the warden's authority for detaining the prisoner. *Stephens v. Conley*, 48 Mont. 352, 367, 138 Pac. 189, Ann. Cas. 1915D, 958.

The certified copy of the judgment is

12091. Power of officer. Such sheriff or deputy, while conveying the criminal to the place of punishment, has the same power and like authority to require the assistance of any citizen of the state in securing such criminal, and retaking him if he escapes, as such sheriff or deputy has in any other case; and all persons who neglect or refuse to assist such sheriff or deputy, when required, are liable to the same penalties as for similar refusals in other cases.

History: En. Sec. 218, p. 250, Bannack Stat.; re-en. Sec. 373, p. 245, Cod. Stat. 1871; re-en. Sec. 373, 3d Div. Rev. Stat.

1879; re-en. Sec. 374, 3d Div. Comp. Stat. 1887; re-en. Sec. Sec. 2244, Pen. C. 1895; re-en. Sec. 9381, Rev. C. 1907.

12092. Sentence to hard labor. In all cases of conviction for felony, the court sentencing any person convicted, must attach to the sentence of imprisonment the provision that such imprisonment be at hard labor, and whenever a jury designate in their verdict any term of imprisonment, the same means imprisonment at hard labor.

History: En. Sec. 1, p. 56, L. 1885; re-en. Sec. 472, 3d Div. Comp. Stat. 1887; re-en. Sec. 2245, Pen. C. 1895; re-en. Sec. 9382, Rev. C. 1907.

Right to compel prisoner to labor, see note in 27 L. R. A. 593.

12093. Execution upon judgment of death. When judgment of death is rendered, a warrant signed by the judge, and attested by the clerk under the seal of the court, must be drawn and delivered to the sheriff.

It must state the conviction and judgment, and appoint a day on which the judgment is to be executed, which must not be less than thirty nor more than sixty days from the time of the judgment.

History: En. Sec. 219, p. 250, Bannack 1887; amd. Sec. 2246, Pen. C. 1895; re-en. Stat.; re-en. Sec. 374, p. 246, Cod. Stat. Sec. 9383, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 374, 3d Div. Rev. Stat. 1217.
1879; re-en. Sec. 375, 3d Div. Comp. Stat.

12094. Judgment of death, when suspended. No judge, court, or officer, other than the governor, can suspend the execution of a judgment of death, except the sheriff, as provided in the six succeeding sections, unless an appeal is taken.

History: En. Sec. 2247, Pen. C. 1895; re-en. Sec. 9384, Rev. C. 1907. Cal. Pen. C. Sec. 1220.

12095. Insanity of defendant, how determined. If, after judgment of death, there is good reason to suppose that the defendant has become insane, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, may summon from the list of jurors selected for the year, a jury of twelve persons to inquire into the supposed insanity, and must give immediate notice thereof to the county attorney of the county.

History: En. Sec. 224, p. 251, Bannack 1887; amd. Sec. 2248, Pen. C. 1895; re-en. Stat.; re-en. Sec. 379, p. 246, Cod. Stat. Sec. 9385, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 379, 3d Div. Rev. Stat. 1221.
1879; re-en. Sec. 380, 3d Div. Comp. Stat.

12096. Duty of county attorney upon inquisition. The county attorney must attend the inquisition, and may produce witnesses before the jury, for which purpose he may issue process in the same manner as for witnesses to attend before the grand jury, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.

History: En. Sec. 225, p. 251, Bannack 1887; amd. Sec. 2249, Pen. C. 1895; re-en. Stat.; re-en. Sec. 380, p. 245, Cod. Stat. Sec. 9386, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 380, 3d Div. Rev. Stat. 1222.
1879; re-en. Sec. 381, 3d Div. Comp. Stat.

12097. Inquisition, how certified and filed. A certificate of the inquisition must be signed by the jurors and the sheriff, and filed with the clerk of the court in which the conviction was had.

History: En. Sec. 226, p. 251, Bannack 1879; re-en. Sec. 382, 3d Div. Comp. Stat. Stat.; re-en. Sec. 381, p. 246, Cod. Stat. 1887; amd. Sec. 2250, Pen. C. 1895; re-en. 1871; re-en. Sec. 381, 3d Div. Rev. Stat. Sec. 9387, Rev. C. 1907.

12098. Proceedings upon finding of jury. If it is found by the inquisition that the defendant is sane, the sheriff must execute the judgment; but if it is found that he is insane, the sheriff must suspend the execution of the judgment until he receives a warrant from the governor or from the judge of the court by which the judgment was rendered directing the execution of the judgment. If the inquisition finds that the defendant is insane, the sheriff must immediately transmit it to the governor, who may, when the defendant becomes sane, issue a warrant appointing a day for the execution of the judgment.

History: Ap. p. Sec. 226, p. 251, Bannack Stat. 1887; en. Sec. 2251, Pen. C. 1895; re-en. Sec. 382, p. 246, Cod. re-en. Sec. 9388, Rev. C. 1907. Cal. Pen. C. Stat. 1871; re-en. Sec. 382, 3d Div. Rev. Sec. 1224.
Stat. 1879; re-en. Sec. 383, 3d Div. Comp.

12099. Proceedings when female is supposed to be pregnant. If there is good reason to suppose that a woman against whom a judgment of death is rendered is pregnant, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, may summon a jury of three physicians to inquire into the supposed pregnancy. Immediate notice thereof must be given to the county attorney of the county, and the provisions of sections 12096 and 12097 apply to the proceedings upon the inquisition.

History: En. Sec. 228, p. 251, Bannack Stat.; re-en. Sec. 383, p. 247, Cod. Stat. 1871; re-en. Sec. 383, 3d Div. Rev. Stat. 1879; re-en. Sec. 384, 3d Div. Comp. Stat. 1887; amd. Sec. 2252, Pen. C. 1895; re-en. Sec. 9389, Rev. C. 1907. Cal. Pen. C. Sec. 1225.

12100. Proceedings upon the finding of the jury. If it is found by the inquisition that the woman is not pregnant, the sheriff must execute the judgment; if it is found that the woman is pregnant, the sheriff must suspend the execution of the judgment, and transmit the inquisition to the governor. When the governor is satisfied that the woman is no longer pregnant, he may issue his warrant appointing a day for the execution of the judgment.

History: En. Secs. 229, 230, p. 251, Bannack Stat.; re-en. Secs. 384, 385, p. 247, Cod. Stat. 1871; re-en. Secs. 384, 385, 3d Div. Rev. Stat. 1879; re-en. Secs. 385, 386, 3d Div. Comp. Stat. 1887; amd. Sec. 2253, Pen. C. 1895; re-en. Sec. 9390, Rev. C. 1907. Cal. Pen. C. Sec. 1226.

12101. Judgment of death remaining in force, not executed. If for any reason a judgment of death has not been executed, and it remains in force, the court in which the conviction was had, on the application of the county attorney, must order the defendant to be brought before it, or, if he is at large, a warrant for his apprehension may be issued. Upon the defendant being brought before the court, it must inquire into the facts, and if no legal reasons exist against the execution of the judgment, must make an order that the sheriff execute the judgment at a specified time. The sheriff must execute the judgment accordingly.

History: En. Secs. 231, 232, p. 252, Bannack Stat.; re-en. Secs. 386, 387, p. 247, Cod. Stat. 1871; re-en. Secs. 386, 387, 3d Div. Rev. Stat. 1879; re-en. Secs. 387, 388, 3d Div. Comp. Stat. 1887; amd. Sec. 2254, Pen. C. 1895; re-en. Sec. 9391, Rev. C. 1907. Cal. Pen. C. Sec. 1227.

Cited or applied as section 2254, Penal Code, in *State v. Cadotte*, 17 Mont. 315, 321, 42 Pac. 857.

12102. Punishment of death, how inflicted. The punishment of death must be inflicted by hanging the defendant by the neck until he is dead.

History: En. Sec. 220, p. 250, Bannack Stat.; re-en. Sec. 375, p. 246, Cod. Stat. 1871; re-en. Sec. 375, 3d Div. Rev. Stat. 1879; re-en. Sec. 376, 3d Div. Comp. Stat. 1887; amd. Sec. 2255, Pen. C. 1895; re-en. Sec. 9392, Rev. C. 1907. Cal. Pen. C. Sec. 1228.

12103. Execution, where to take place and who to be present. A judgment of death must be executed within the walls or yard of a jail, or some convenient private place in the county. The sheriff of the county must be present at the execution, and must invite the presence of a physician, the county attorney of the county, and at least twelve reputable citizens, to be selected by him; and he shall, at the request of the defendant, permit such priests or ministers of the gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to

exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under age be allowed to witness the same.

History: En Sec. 222, p. 250, Bannack 1887; amd. Sec. 2256, Pen. C. 1895; re-en. Stat.; re-en. Sec. 377, p. 246, Cod. Stat. Sec. 9393, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 377, 3d Div. Rev. Stat. 1229.
1879; re-en. Sec. 378, 3d Div. Comp. Stat.

12104. Return upon death warrant. After the execution, the sheriff must make a return upon the death warrant, showing the time, mode, and manner in which it was executed.

History: En. Sec. 2257, Pen. C. 1895; re-en. Sec. 9394, Rev. C. 1907. Cal. Pen. C. Sec. 1230.

CHAPTER 33.

APPEALS—WHEN ALLOWED—HOW TAKEN—THE EFFECT THEREOF.

- Section 12105. Appeal, by Whom Taken, on Questions of Law Alone.
12106. Parties, How Designated on Appeal.
12107. Appeal, When May Be Taken by the Defendant.
12108. In What Cases by the State.
12109. Appeals, Within What Time to Be Taken.
12110. Appeal, How Taken.
12111. When Notice May Be Served by Publication.
12112. Effect of an Appeal by the State.
12113. Effect of Appeal by the Defendant.
12114. Same.
12115. Same.
12116. Duty of Clerks Upon Appeal.
12117. Appeal, When Tried.
12118. Appeal by One Defendant.

12105. Appeal, by whom taken, on questions of law alone. An appeal to the supreme court may be taken by the defendant, as a matter of right, from any judgment against him.

History: En. Sec. 242, p. 253, Bannack Stat.; re-en. Sec. 393, p. 249, Cod. Stat. 1871; re-en. Sec. 393, 3d Div. Rev. Stat. 1879; re-en. Sec. 394, 3d Div. Comp. Stat. 1887; re-en. Sec. 2270, Pen. C. 1895; re-en. Sec. 9395, Rev. C. 1907. Cal. Pen. C. Sec. 1235.

This section and section 12107 do not give the right of appeal from an order denying a writ of habeas corpus, since the complainant in such a proceeding is not a defendant, and the determination of the court is not a "judgment," within the meaning of those sections. State ex rel. Jackson v. Kennie, 24 Mont. 45, 50, 60 Pac. 589.

The judgment mentioned in this section

is the final judgment or other order referred to in section 12107, and embraces only those judgments and orders which become res adjudicata and final as to all matters involved in the controversy. State ex rel. Jackson v. Kennie, 24 Mont. 45, 50, 60 Pac. 589.

An order denying a writ of habeas corpus is not such a judgment as to render the rights of the petitioner res adjudicata, and finally to conclude him. State ex rel. Jackson v. Kennie, 24 Mont. 45, 50, 60 Pac. 589.

Cited or applied as section 393, p. 249, Codified Statutes 1871, in United States v. Smith, 2 Mont. 487; as section 2270, Penal Code, in State v. O'Brien, 12 Mont. 1, 5, 43 Pac. 1091, 44 Pac. 399.

12106. Parties, how designated on appeal. The party appealing is known as the appellant, and the adverse party as the respondent, but the title of the action is not changed in consequence of the appeal.

History: En. Sec. 2271, Pen. C. 1895; re-en. Sec. 9396, Rev. C. 1907. Cal. Pen. C. Sec. 1236.

12107. Appeal, when may be taken by the defendant. An appeal may be taken by the defendant—

1. From a final judgment of conviction;
2. From an order denying a motion for a new trial;
3. From an order made after judgment, affecting the substantial rights of the party.

History: En. Sec. 2272, Pen. C. 1895; re-en. Sec. 9397, Rev. C. 1907. Cal. Pen. C. Sec. 1237.

An appeal from an order overruling a motion in arrest of judgment does not lie on behalf of defendant. *State v. Beesskove*, 34 Mont. 41, 48, 85 Pac. 376; *State v. Brown*, 38 Mont. 309, 311, 99 Pac. 954.

Cited or applied as section 2272, Penal

Code, in *State v. Cadotte*, 17 Mont. 315, 316, 42 Pac. 857; *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 50, 60 Pac. 589; *State v. Beesskove*, 34 Mont. 41, 48, 85 Pac. 376.

Payment of fine as waiver of right to appeal, see notes in Ann. Cas. 1913E, 300; Ann. Cas. 1916C, 619.

12108. In what cases by the state. An appeal may be taken by the state—

1. From a judgment for the defendant on a demurrer to the indictment or information;
2. From an order granting a new trial;
3. From an order arresting judgment;
4. From an order made after judgment, affecting the substantial rights of the state;
5. From an order of the court directing the jury to find for the defendant.

History: En. Sec. 2273, Pen. C. 1895; re-en. Sec. 9398, Rev. C. 1907. Cal. Pen. C. Sec. 1238.

The right of appeal by the state should be strictly construed and limited to those instances mentioned in the statute. *Territory v. Laun*, 8 Mont. 322, 325, 20 Mont. 652; *State v. Northrup*, 13 Mont. 522, 530, 35 Pac. 228.

Regarding the substance of things, an order arresting judgment is, in its nature and results, a judgment for defendant. It is a denying a judgment to the state, and a discharge and acquittal of defendant from any possible consequences that threatened to flow from the information. *State v. Northrup*, 13 Mont. 522, 537, 35 Pac. 228.

The state has no appeal in criminal cases, unless the same is expressly granted by law. *State v. Northrup*, 13 Mont. 522, 530, 35 Pac. 228.

An order of the district court sustaining a defendant's plea of former acquittal and

jeopardy, after the reversal of a conviction for manslaughter under an indictment charging murder in the first degree, is not an appealable order under subdivision 4. *State v. O'Brien*, 19 Mont. 6, 47 Pac. 103.

An appeal cannot be taken by the state from an order setting aside an information. *State v. O'Brien*, 20 Mont. 191, 50 Pac. 412.

The state is not authorized by this section to appeal from a judgment for defendant on demurrer to a complaint charging defendant with the commission of a misdemeanor. *State v. Morris*, 22 Mont. 1, 3, 55 Pac. 360.

Cited or applied as section 2273, Penal Code, in *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 50, 60 Pac. 589; as section 9398, Revised Codes, in *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

Constitutionality of statute giving state right to appeal in criminal case, see note in L. R. A. 1915F, 1093.

12109. Appeals, within what time to be taken. An appeal from a judgment may be taken within one year after its rendition, and from an order within sixty days after it is made.

History: En. Sec. 2274, Pen. C. 1895; re-en. Sec. 9399, Rev. C. 1907. Cal. Pen. C. Sec. 1239.

12110. Appeal, how taken. An appeal may be taken by filing with the clerk of the court in which the judgment or order appealed from is

entered or filed, a notice stating the appeal from the same, and serving a copy thereof upon the attorney of the adverse party.

History: En. Sec. 246, p. 254, Bannack Stat.; re-en. Sec. 397, p. 249, Cod. Stat. 1871; re-en. Sec. 397, 3d Div. Rev. Stat. 1879; re-en. Sec. 398, 3d Div. Comp. Stat. 1887; amd. Sec. 2275, Pen. C. 1895; re-en. Sec. 9400, Rev. C. 1907. Cal. Pen. C. Sec. 1240.

Cited or applied as section 2275, Penal Code, in *State ex rel. Connors v. Foster*, 36 Mont. 278, 280, 92 Pac. 761; as section 9400; Revised Codes, in *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

12111. When notice may be served by publication. If personal service cannot be made, the judge of the court in which the action is tried, upon proof thereof, may make an order for the publication of the notice in some newspaper, for a period of not exceeding thirty days. Such publication is equivalent to personal service.

History: En. Sec. 2276, Pen. C. 1895; re-en. Sec. 9401, Rev. C. 1907. Cal. Pen. C. Sec. 1241.

12112. Effect of an appeal by the state. An appeal taken by the state in no case stays or affects the operation of the judgment in favor of the defendant until judgment is reversed.

History: En. Sec. 247, p. 254, Bannack Stat.; re-en. Sec. 398, p. 250, Cod. Stat. 1871; re-en. Sec. 398, 3d Div. Rev. Stat. 1879; re-en. Sec. 399, 3d Div. Comp. Stat. 1887; re-en. Sec. 2277, Pen. C. 1895; re-en. Sec. 9402, Rev. C. 1907. Cal. Pen. C. Sec. 1242.

12113. Effect of appeal by the defendant. An appeal to the supreme court from a judgment of conviction, stays the execution of the judgment in all capital cases, and in all other cases upon filing with the clerk of the court in which the conviction was had, a certificate of the judge of such court, or of a justice of the supreme court, that in his opinion, there is probable cause for the appeal, but not otherwise.

History: En. Sec. 2278, Pen. C. 1895; re-en. Sec. 9403, Rev. C. 1907. Cal. Pen. C. Sec. 1243.

Petitions to a justice of the supreme court for certificates of probable cause must be verified by the oath of the petitioner, or of some person in his behalf. *State v. Broadbent*, 27 Mont. 63, 65, 69 Pac. 323.

No appeal lies from a refusal of a district judge to grant a certificate of prob-

able cause. *State v. Broadbent*, 27 Mont. 63, 65, 69 Pac. 323.

Where the transcript discloses a fairly debatable question, the solution of which in defendant's favor by the supreme court would necessitate a reversal, a certificate of probable cause will be granted. *State v. Broadbent*, 27 Mont. 63, 66, 69 Pac. 323.

Cited or applied as section 2278, Penal Code, in *State v. Cadotte*, 17 Mont. 315, 321, 42 Pac. 857; *State v. McDonald*, 27 Mont. 66, 67, 69 Pac. 323.

12114. Same. If the certificate provided for in the preceding section is filed, the sheriff must, if the defendant be in his custody, upon being served with a copy thereof, keep the defendant in his custody without executing the judgment, and detain him to abide the judgment on appeal.

History: En. Sec. 2279, Pen. C. 1895; re-en. Sec. 9404, Rev. C. 1907. Cal. Pen. C. Sec. 1244.

12115. Same. If before the granting of the certificate, the judgment has commenced, the further execution thereof is suspended, and upon service of a copy of such certificate the defendant must be restored, by the officer in whose custody he is, to his original custody.

History: En. Sec. 2280, Pen. C. 1895; re-en. Sec. 9405, Rev. C. 1907. Cal. Pen. C. Sec. 1245.

12116. Duty of clerks upon appeal. Upon the appeal being taken, the clerk with whom the notice of appeal is filed must, within ten days thereafter, in case the bill of exceptions has been settled by the judge before the giving of said notice, but if not, then within ten days from the settlement of the bill of exceptions, without charge transmit to the clerk of the appellate court a copy of the notice of appeal, and of the record and of all bills of exceptions, instructions, and indorsements thereon; and, upon the receipt thereof, the clerk of the appellate court must file the same, and perform the same services, as in civil cases, without charge.

History: En. Sec. 2281, Pen. C. 1895; court or the trial judge. *State v. Fariss*, 34 Mont. 424, 425, 87 Pac. 177.
re-en. Sec. 9406, Rev. C. 1907. Cal. Pen. C. Sec. 1246.

The supreme court is without jurisdiction to consider an appeal where the record does not contain a copy of the notice of appeal. *City of Butte v. Call*, 23 Mont. 94, 95, 57 Pac. 726.

Where the record on appeal does not contain the judgment, the appeal is subject to dismissal on motion. *State v. Mott*, 29 Mont. 292, 308, 74 Pac. 728.

The merits of an appeal in a criminal case will not be considered where the papers constituting the record are included in a bill of exceptions and not certified as the record, nor identified in any way by the certificate of the clerk of the district

The clerk of the district court must, as soon as notice of appeal is filed, prepare a copy of the record and other papers and transmit the same within ten days from the date of the notice, or, in case there is a bill of exceptions to be settled, then within ten days of the date of settlement, to the clerk of the supreme court, without charge to the appellant. A *praecepe* enumerating the papers constituting such technical record need not be lodged with the clerk. *State ex rel. Connors v. Foster*, 36 Mont. 278, 280, 92 Pac. 761.

Cited or applied as section 9406, Revised Codes, in *State v. Libby Yards*, 58 Mont. 444, 193 Pac. 394.

12117. Appeal, when tried. An appeal shall stand for trial immediately after filing the transcript on appeal, if the supreme court is in session; if not in session, at the next term thereafter, on proof of notice of appeal to the respondent.

History: En. Sec. 250, p. 254, Bannack Stat.; re-en. Sec. 401, p. 250, Cod. Stat. 1871; re-en. Sec. 401, 3d Div. Rev. Stat. 1879; re-en. Sec. 402, 3d Div. Comp. Stat. 1887; re-en. Sec. 2282, Pen. C. 1895; re-en. Sec. 9407, Rev. C. 1907.

12118. Appeal by one defendant. When several defendants are tried jointly, any one or more of them may take an appeal; but those who do not join in the appeal shall not be affected thereby.

History: En. Sec. 251, p. 254, Bannack Stat.; re-en. Sec. 402, p. 250, Cod. Stat. 1871; re-en. Sec. 402, 3d Div. Rev. Stat. 1879; re-en. Sec. 403, 3d Div. Comp. Stat. 1887; re-en. Sec. 2283, Pen. C. 1895; re-en. Sec. 9408, Rev. C. 1907.

CHAPTER 34.

DISMISSING APPEALS FOR IRREGULARITY—ARGUMENT ON THE APPEAL—JUDGMENT UPON APPEAL.

- Section 12119. For What Irregularity, and How Dismissed.
 12120. Dismissed for Want of a Return.
 12121. Informality in Appeal Disregarded.
 12122. Judgment Cannot Be Reversed Without Argument.
 12123. Number of Counsel to Be Heard.
 12124. Defendant Need Not Be Present.
 12125. Judgment Without Regard to Technical Errors.
 12126. What May Be Reviewed on an Appeal by the Defendant.
 12127. May Reverse, Affirm, or Modify the Judgment, and Order a New Trial.
 12128. New Trial, Where to Be Had.
 12129. Defendant Discharged on Reversal of Judgment.
 12130. Judgment to Be Executed on Affirmance.
 12131. Judgment of Appellate Court, How Entered and Remitted.
 12132. Jurisdiction Ceases After Judgment Remitted.

12119. For what irregularity, and how dismissed. If the appeal is irregular in any substantial particular, but not otherwise, the appellate court may, on any day, on motion of the respondent, upon five days' notice, accompanied with copies of the papers upon which the motion is founded, order it to be dismissed. The dismissal of an appeal affirms the judgment.

History: En. Sec. 2300, Pen. C. 1895; re-en. Sec. 9409, Rev. C. 1907. Cal. Pen. C. Sec. 1248.

12120. Dismissed for want of a return. The court may also, upon like motion, dismiss the appeal, if the transcript is not made as provided in section 12116, unless for good cause they enlarge the time for the purpose.

History: En. Sec. 2301, Pen. C. 1895; re-en. Sec. 9410, Rev. C. 1907. Cal. Pen. C. Sec. 1249.

12121. Informality in appeal disregarded. An appeal must not be dismissed for any informality or defect in the taking thereof. If the same be corrected within a reasonable time after an appeal has been dismissed, another appeal may be taken. If an undertaking has been given which is defective in any respect a new one may be filed on appeal, in the supreme court.

History: En. Sec. 255, p. 255, Bannack Stat.; re-en. Sec. 406, p. 250, Cod. Stat. 1871; re-en. Sec. 406, 3d Div. Rev. Stat. 1879; re-en. Sec. 407, 3d Div. Comp. Stat. 1887; amd. Sec. 2302, Pen. C. 1895; re-en. Sec. 9411, Rev. C. 1907.

Cited or applied as section 407, Third Division Compiled Statutes 1887, in *Territory v. Harris*, 7 Mont. 429, 17 Pac. 557; *Territory v. Milroy*, 7 Mont. 559, 19 Pac. 209.

12122. Judgment cannot be reversed without argument. The judgment may be affirmed if the appellant fail to appear, but can be reversed only after argument, though the respondent fail to appear.

History: En. Sec. 2310, Pen. C. 1895; re-en. Sec. 9412, Rev. C. 1907. Cal. Pen. C. Sec. 1253.

The word "argument" means argument, whether written or oral, and where a case has been submitted on briefs, the court is required to decide the cause upon its merits and reverse or affirm the judgment, just as it would have done if there had

been a full oral argument, since the statute simply means that if the appellant fails to disclose by appropriate argument wherein the lower court has committed prejudicial error, the judgment may be affirmed but not reversed. *State v. Guerin*, 51 Mont. 250, 256, 152 Pac. 747.

Cited or applied as section 9412, Revised Codes, in *Roberts v. Sinnott*, 54 Mont. 114, 122, 169 Pac. 49.

12123. Number of counsel to be heard. Upon the argument of the appeal, if the offense is punishable with death, two counsel must be heard on each side, if they require it. In any other case the court may, in its discretion, restrict the argument to one counsel on each side.

History: En. Sec. 2311, Pen. C. 1895; re-en. Sec. 9413, Rev. C. 1907. Cal. Pen. C. Sec. 1254.

12124. Defendant need not be present. The defendant need not personally appear in the appellate court.

History: En. Sec. 2312, Pen. C. 1895; re-en. Sec. 9414, Rev. C. 1907. Cal. Pen. C. Sec. 1255.

12125. Judgment without regard to technical errors. After hearing the appeal, the court must give judgment without regard to technical

errors or defects, or to exceptions, which do not affect the substantial rights of the parties.

Related section: 11874.

History: En. Sec. 254, p. 255, Bannack Stat.; re-en. Sec. 405, p. 250, Cod. Stat. 1871; re-en. Sec. 405, 3d Div. Rev. Stat. 1879; re-en. Sec. 406, 3d Div. Comp. Stat. 1887; re-en. Sec. 2320, Pen. C. 1895; re-en. Sec. 9415, Rev. C. 1907. Cal. Pen. C. Sec. 1258.

Where no substantial right of the defendant has been disregarded, a mere apex juris is not sufficient cause for the reversal or modification of the judgment. *State v. Connors*, 27 Mont. 227, 229, 70 Pac. 715.

Query, as to whether the rule, that "error appearing, prejudice will be presumed," as announced prior to the adoption of the codes in 1895, was abrogated by this section and section 11874, which declare the law to be that no judgment shall be held invalid for mere technical errors not affecting the substantial rights of the defendant. *State v. Gordon*, 35 Mont. 458, 466, 90 Pac. 173.

Where, under the evidence submitted at a trial for assault in the second degree, the defendant might have been convicted of assault in either the second or third degree, but was found guilty of the lower degree, the judgment will not be reversed for a purely technical error in giving an instruction. *State v. Tracey*, 35 Mont. 552, 555, 90 Pac. 791.

An information charging an attempt to obtain money by false pretenses, though defective in form and containing immaterial averments, is sufficient to sustain a conviction, when it is apparent that the defendant has suffered no prejudice. *State v. Phillips*, 36 Mont. 112, 118, 92 Pac. 299.

A technical error in pleading a prior conviction will not work a reversal, if the punishment imposed does not exceed the limit which could properly be imposed. *State v. Paisley*, 36 Mont. 237, 248, 92 Pac. 566.

Where the record in a criminal cause did not show that the jurors were not all present when the verdict was delivered, and from the minutes no other fair inference could be drawn than that they were actually present at the time, the omission from the minutes of a statement that their names were called prior to delivery of the verdict was not an error which prejudiced defendant in his substantial rights. *State v. De Lea*, 36 Mont. 531, 536, 93 Pac. 814.

A judgment of conviction will not be reversed for error in the trial proceedings that did not prejudice, or tend to prejudice, defendant in respect to a substantial right. *State v. Rhys*, 40 Mont. 131, 134, 105 Pac. 494.

Under this section and section 11874, a judgment of conviction will not be re-

versed unless the error prejudiced, or tended to the prejudice of, defendant. *State v. Vanella*, 40 Mont. 326, 345, 106 Pac. 364, 20 Ann. Cas. 398.

It ought no longer to be the rule in criminal cases in this state that, error being shown, prejudice will be presumed, as was held prior to 1895, when the codes were adopted. The former practice resulted in altogether too many reversals of criminal cases for technical errors which did not affect the substantial rights of the defendant. *State v. Byrd*, 41 Mont. 585, 592, 111 Pac. 407.

It is for the supreme court to determine whether an error affects the substantial rights of the defendant. If the point can be decided from an inspection of the record, the court may act accordingly; if the defendant claims prejudice, it is his duty to demonstrate that fact from the record. *State v. Byrd*, 41 Mont. 585, 592, 111 Pac. 407.

To warrant the supreme court in interfering with the judgment in a criminal case, it must appear that the substantial rights of the defendant have been injuriously affected. *State v. Crean*, 43 Mont. 47, 60, 114 Pac. 603, Ann. Cas. 1912C, 424.

Though refusal to strike out an irresponsible answer in which the witness volunteers a statement of facts from which the complaining party has probably suffered prejudice will result in a reversal of the judgment, such refusal is harmless error where the objectionable statement was volunteered on cross-examination after having been twice before made on his direct examination. *State v. Jones*, 48 Mont. 505, 515, 139 Pac. 441.

Where a county attorney violated the express injunction of section 11805 by indorsing the name of a witness as "John Doe Mitchell," whereas he knew his true name to be "James Mitchell," defendant was not entitled to a new trial in the absence of a showing that he had been prejudiced by the officer's delinquency. *State v. McDonald*, 51 Mont. 1, 7, 149 Pac. 279.

Under this section, prejudice to appellant in a criminal cause cannot be presumed, but must be made to appear, either affirmatively by the record, or by a denial or invasion of some substantial right from which the law imputes prejudice. *State v. Hall*, 55 Mont. 182, 188, 175 Pac. 267.

Under this section the supreme court will not reverse a judgment of conviction on account of technical errors or defects in the information, where defendant was fully advised of the nature of the charge against him to enable him to prepare to meet that charge, and his substantial rights were not affected by the defect. *State v. Wehr*, 57 Mont. 469, 188 Pac. 930.

An erroneous ruling of the court in admitting evidence which could not affect the substantial rights of the parties must be disregarded. *Church v. Zywert*, 58 Mont. 102, 107, 190 Pac. 291.

Cited or applied as section 2320, Penal Code, in *State v. Mahoney*, 24 Mont. 281, 285, 61 Pac. 647; *State v. Paisley*, 36

Mont. 237, 248, 92 Pac. 566; as section 9415, Revised Codes, in *State v. Crowe*, 39 Mont. 174, 179, 102 Pac. 579, 18 Ann. Cas. 643; *State v. Murphy*, 46 Mont. 591, 129 Pac. 1058; *State v. Harris*, 51 Mont. 496, 154 Pac. 198; *State v. Russell*, 52 Mont. 583, 160 Pac. 655.

12126. What may be reviewed on an appeal by the defendant. Upon an appeal taken by the defendant from a judgment, the court may review any intermediate order or ruling involving the merits, or which may have affected the judgment.

History: En. Sec. 2321, Pen. C. 1895; re-en. Sec. 9416, Rev. C. 1907. Cal. Pen. C. Sec. 1259.

This section having been taken verbatim from the California code, it is adopted with the construction placed upon it by the courts of that state. *State v. O'Brien*, 18 Mont. 1, 6, 43 Pac. 1091, 44 Pac. 399.

Rulings of the trial court upon matters of law in the exclusion or admission of testimony, during the progress of the trial may be brought before the supreme court by bill of exceptions on an appeal from the judgment without a motion for a new trial; but this section does not permit the review, on an appeal from the judgment only, of matters embraced within any of the cases for which a new trial may be granted, except errors in the decision of questions of law during the trial, which

may be reviewed either by appeal from the judgment or from an order denying a motion for a new trial. *State v. O'Brien*, 18 Mont. 1, 5, 6, 43 Pac. 1091, 44 Pac. 399.

An order overruling a motion in arrest of judgment is an intermediate order affecting the judgment, and may be reviewed only on appeal from the judgment. *State v. Beesskove*, 34 Mont. 41, 48, 85 Pac. 376; *State v. Brown*, 38 Mont. 309, 311, 99 Pac. 954.

The defendant, on appeal from a judgment of conviction, may, by bill of exceptions, bring before the court errors in the decision upon questions of law arising during the course of the trial, exclusive of those embraced within the provisions of the statute providing for new trials. *State v. Francis*, 58 Mont. 659, 666, 194 Pac. 304.

12127. May reverse, affirm, or modify the judgment, and order a new trial. The court may reverse, affirm, or modify the judgment or order appealed from, and may set aside, affirm, or modify any or all of the proceedings subsequent to, or dependent upon, such judgment or order, and may, if proper, order a new trial. In either case the cause must be remanded to the district court with proper instruction, together with the opinion of the court.

History: En. Sec. 403, p. 250, Cod. Stat. 1871; re-en. Sec. 403, 3d Div. Rev. Stat. 1879; re-en. Sec. 404, 3d Div. Comp. Stat. 1887; amd. Sec. 2322, Pen. C. 1895; re-en. Sec. 9417, Rev. C. 1907. Cal. Pen. C. Sec. 1260.

When a judgment of acquittal is reversed on appeal it is proper for the supreme court, under this section, to remand the case to the district court for a new trial, where the defendant may then, if he desires, plead former acquittal in bar of such new trial. *State v. Herron*, 12 Mont. 300, 30 Pac. 140.

A judgment of conviction for crime, which erroneously included payment by defendant of the costs of prosecution, is not on that account void as a whole; but the same may, under this section, be modified by striking therefrom the provision as to costs, and, as so modified, be allowed to stand. *State v. Stone*, 40 Mont. 88, 93, 105 Pac. 89.

Cited or applied as section 9417, Revised Codes, in *In re Lewis*, 51 Mont. 539, 541, 154 Pac. 713.

12128. New trial, where to be had. When a new trial is ordered it must be directed to be had in the court of the county from which the appeal was taken.

History: En. Sec. 2323, Pen. C. 1895; re-en. Sec. 9418, Rev. C. 1907. Cal. Pen. C. Sec. 1261.

12129. Defendant discharged on reversal of judgment. If a judgment against the defendant is reversed without ordering a new trial, the appellate court must, if he is in custody, direct him to be discharged therefrom; or if on bail, that his bail be exonerated; or if money was deposited instead of bail, that it be refunded to the defendant.

History: En. Sec. 2324, Pen. C. 1895; re-en. Sec. 9419, Rev. C. 1907. Cal. Pen. C. Sec. 1262.

Cited or applied as section 2324, Penal Code, in *State v. Mjelde*, 29 Mont. 490, 75 Pac. 87.

12130. Judgment to be executed on affirmance. If a judgment against the defendant is affirmed the original judgment must be enforced.

History: En. Sec. 256, p. 255, Bannack Stat.; re-en. Sec. 407, p. 250, Cod. Stat. 1871; re-en. Sec. 407, 3d Div. Rev. Stat. 1879; re-en. Sec. 408, 3d Div. Comp. Stat. 1887; amd. Sec. 2325, Pen. C. 1895; re-en.

Sec. 9420, Rev. C. 1907. Cal. Pen. C. Sec. 1263.

Cited or applied as section 2325, Penal Code, in *State v. Cadotte*, 17 Mont. 315, 321, 42 Pac. 857.

12131. Judgment of appellate court, how entered and remitted. When the judgment of the appellate court is given, it must be entered in the minutes, and a certified copy of the entry forthwith remitted to the clerk of the court from which the appeal was taken.

History: En. Sec. 2326, Pen. C. 1895; re-en. Sec. 9421, Rev. C. 1907. Cal. Pen. C. Sec. 1264.

12132. Jurisdiction ceases after judgment remitted. After the certificate of the judgment has been remitted to the court below, the appellate court has no further jurisdiction of the appeal or of the proceedings thereon, and all orders necessary to carry the judgment into effect must be made by the court to which the certificate is remitted.

History: En. Sec. 2327, Pen. C. 1895; re-en. Sec. 9422, Rev. C. 1907. Cal. Pen. C. Sec. 1265.

Cited or applied as section 2327, Penal Code, in *State v. Cadotte*, 17 Mont. 315, 321, 42 Pac. 857.

CHAPTER 35.

IN WHAT CASES DEFENDANT MAY BE ADMITTED TO BAIL.

- Section 12133. Admission to Bail Defined.
 12134. Taking of Bail Defined.
 12135. Offense Not Bailable.
 12136. Defendant, When Admitted to Bail Before Conviction.
 12137. When Admitted to Bail After Conviction and Upon Appeal.
 12138. Nature of Bail.
 12139. When Bail Is Matter of Discretion, Notice of Application Must Be Given to County Attorney.

12133. Admission to bail defined. Admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody upon bail.

History: En. Sec. 236, p. 226, Cod. Stat. 1871; re-en. Sec. 236, 3d Div. Rev. Stat. 1879; re-en. Sec. 237, 3d Div. Comp. Stat. 1887; re-en. Sec. 2340, Pen. C. 1895; re-en. Sec. 9440, Rev. C. 1907. Cal. Pen. C. Sec. 1268.

For text treatment of "Bail and Recognizance," see 3 Cal. Jur. 1021 and 3 E. C. L. 1.

12134. Taking of bail defined. The taking of bail consists in the acceptance, by a competent court or magistrate, or legally authorized

officer, of the undertaking of sufficient bail for the appearance of the defendant, according to the terms of the undertaking, or that the bail will pay to the state a specified sum.

History: En. Sec. 237, p. 226, Cod. Stat. 1887; amd. Sec. 2341, Pen. C. 1895; re-en. 1871; re-en. Sec. 237, 3d Div. Rev. Stat. Sec. 9441, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 238, 3d Div. Comp. Stat. 1269.

12135. Offense not bailable. A defendant charged with an offense punishable with death cannot be admitted to bail when the proof of his guilt is evident or the presumption thereof great. The finding of an indictment or the filing of an information does not add to the strength of the proof or the presumptions to be drawn therefrom.

History: Ap. p. Secs. 112-238, pp. 207- 239, 3d Div. Comp. Stat. 1887; en. Sec. 227, Cod. Stat. 1871; re-en. Secs. 112-238, 2342, Pen. C. 1895; re-en. Sec. 9442, Rev. C. 3d Div. Rev. Stat. 1879; re-en. Secs. 112- 1907. Cal. Pen. C. Sec. 1270.

12136. Defendant, when admitted to bail before conviction. If the charge is for any other offense, he may be admitted to bail before conviction, as a matter of right.

History: En. Sec. 2343, Pen. C. 1895; Note.—Early history same as that of re-en. Sec. 9443, Rev. C. 1907. Cal. Pen. C. preceding section. Sec. 1271.

12137. When admitted to bail after conviction and upon appeal. After conviction of an offense not punishable with death, a defendant who has appealed may be admitted to bail—

1. As a matter of right, when the appeal is from a judgment imposing a fine only;
2. As a matter of discretion in all other cases.

History: En. Sec. 241, p. 227, Cod. Stat. 1887; re-en. Sec. 2344, Pen. C. 1895; re-en. 1871; re-en. Sec. 241, 3d Div. Rev. Stat. Sec. 9444, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 242, 3d Div. Comp. Stat. 1272.

12138. Nature of bail. If the offense is bailable, the defendant may be admitted to bail before conviction—

1. For his appearance before the magistrate during the pendency of a trial or on the examination of the charge, before being held to answer;
2. To appear at the court to which the magistrate is required to return the complaint, testimony and statement, upon the defendant being held to answer after examination;
3. After indictment or information filed, either before the warrant is issued for his arrest, or upon any order of the court committing him, or enlarging the amount of bail, or upon his being surrendered by his bail to answer the indictment or information in the court in which it is found or filed, or to which it may be transferred for trial.

And after conviction, and upon an appeal—

1. If the appeal is from a judgment imposing a fine only, on the undertaking of bail that he will pay the same or such part thereof as the appellate court may direct, if the judgment is affirmed or modified, or the appeal is dismissed;
2. If the judgment of imprisonment has been given, that he will surrender himself in execution of the judgment, upon its being affirmed or modified, or upon the appeal being dismissed, or that in case the judg-

ment be reversed, and that the cause be remanded for a new trial, that he will appear in the court to which said cause may be remanded, and submit himself to the orders and process thereof.

History: En. Secs. 242, 243, p. 227, Cod. Stat. 1887; amd. Sec. 2345, Stat. 1871; re-en. Secs. 242, 243, 3d Div. Rev. Stat. 1879; re-en. Secs. 243, 244, 3d Div. Comp. Stat. 1887; amd. Sec. 2346, Pen. C. 1895; re-en. Sec. 9446, Rev. C. 1907. Cal. Pen. C. Sec. 1273.

12139. When bail is matter of discretion, notice of application must be given to county attorney. When the admission to bail is a matter of discretion the court or officer to whom the application is made must require reasonable notice thereof to be given to the county attorney of the county.

History: En. Sec. 240, p. 227, Cod. Stat. 1887; amd. Sec. 2346, Pen. C. 1895; re-en. 1871; re-en. Sec. 240, 3d Div. Rev. Stat. Sec. 9446, Rev. C. 1907. Cal. Pen. C. Sec. 1274.

CHAPTER 36.

BAIL ON BEING HELD TO ANSWER BEFORE INFORMATION.

Section 12140. What Magistrates May Admit to Bail.

12141. Bail, How Put In, and Form of the Undertaking.

12142. Qualifications of Bail.

12143. Bail, How to Justify.

12144. On Allowance of Bail, Defendant to Be Discharged.

12140. What magistrates may admit to bail. When the defendant has been held to answer upon an examination for a public offense, the admission to bail may be by the magistrate by whom he is so held, or by any magistrate who has power to issue the writ of habeas corpus.

History: En. Sec. 239, p. 227, Cod. Stat. 1871; re-en. Sec. 239, 3d Div. Rev. Stat. 1879; re-en. Sec. 240, 3d Div. Comp. Stat. 1887; amd. Sec. 2350, Pen. C. 1895; re-en. Sec. 9447, Rev. C. 1907. Cal. Pen. C. Sec. 1277.

This section means that the committing magistrate may approve and accept the undertaking which he has himself required by his order made upon holding the defendant to answer. Any other construction of this statute would, at times, infringe seriously upon a prisoner's right to be admitted to bail. *State v. Lagoni*, 30 Mont. 472, 479, 76 Pac. 1044.

The committing magistrate may approve and accept the undertaking which he him-

self required by his order upon holding the defendant to answer, and has the power and authority to accept and approve the bond until the district court obtains final jurisdiction of the entire matter upon the filing of an information or the presentment of an indictment, or until the judge of the district or a justice of the supreme court has fixed anew the prisoner's bail. *State v. Lagoni*, 30 Mont. 472, 478, 76 Pac. 1044.

An order allowing bail in a homicide case is properly made, in the absence of a showing, by the county attorney, that the proof of the defendant's guilt was evident or the presumption thereof great. *State ex rel. Murray v. District Court*, 35 Mont. 504, 507, 90 Pac. 513.

12141. Bail, how put in, and form of the undertaking. Bail is put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the magistrate), and acknowledged before the court or magistrate, in substantially the following form:

"An order having been made on the day of, A. D. nineteen hundred and, by A B, a justice of the peace of county (or as the case may be), that C D be held to answer upon a charge of (stating briefly the nature of the offense), upon which he has been admitted to bail in the sum of dollars; we, E F and G H (stating their place of business and occupation), hereby undertake that the above-named C D will appear and answer the charge above

mentioned, in whatever court it may be prosecuted, and will at all times hold himself amenable to the orders and process of the court, and if convicted, will appear for judgment, and render himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the state of Montana the sum of dollars" (inserting the sum in which the defendant is admitted to bail).

History: Ap. p. Sec. 244, p. 227, Cod. Stat. 1871; re-en. Sec. 244, 3d Div. Rev. Stat. 1879; re-en. Sec. 245, 3d Div. Comp. Stat. 1887; en. Sec. 2351, Pen. C. 1895; re-en. Sec. 9448, Rev. C. 1907. Cal. Pen. C. Sec. 1278. Cited or applied as section 2351, Penal Code, in *State v. Lagoni*, 30 Mont. 472, 474, 76 Pac. 1044.

12142. Qualifications of bail. The qualifications of bail are as follows:

1. Each of them must be a resident, householder, or freeholder within the state, but the court or magistrate may refuse to accept any person as bail who is not a resident of the county where bail is offered.

2. They must each be worth the amount specified in the undertaking, exclusive of property exempt from execution; but the court or magistrate, on taking bail, may allow more than two sureties to justify severally in amounts less than that expressed in the undertaking, if the whole justification be equivalent to that of sufficient bail.

History: En. Sec. 245, p. 228, Cod. Stat. 1887; amd. Sec. 2352, Pen. C. 1895; re-en. 1871; re-en. Sec. 245, 3d Div. Rev. Stat. Sec. 9449, Rev. C. 1907. Cal. Pen. C. Sec. 1279; re-en. Sec. 246, 3d Div. Comp. Stat. 1279.

12143. Bail, how to justify. The bail must in all cases justify by affidavit taken before the magistrate that they each possess the qualifications provided in the preceding section. The magistrate may further examine the bail upon oath concerning their sufficiency, in such manner as he may deem proper.

History: En. Sec. 246, p. 228, Cod. Stat. 1887; amd. Sec. 2353, Pen. C. 1895; re-en. 1871; re-en. Sec. 246, 3d Div. Rev. Stat. Sec. 9450, Rev. C. 1907. Cal. Pen. C. Sec. 1280; re-en. Sec. 247, 3d Div. Comp. Stat. 1280.

12144. On allowance of bail, defendant to be discharged. Upon the allowance of bail and the execution of the undertaking, the magistrate must, if the defendant is in custody, make and sign an order for his discharge, upon the delivery of which to the proper officer the defendant must be discharged.

History: En. Sec. 2354, Pen. C. 1895; re-en. Sec. 9451, Rev. C. 1907. Cal. Pen. C. Sec. 1281. bal order of release, instead of complying with this section, was no defense to a surety in an action on the bail bond. *State v. Lagoni*, 30 Mont. 472, 481, 76 Pac. 1044.

The fact that a magistrate made a ver-

CHAPTER 37.

BAIL ON INDICTMENT OR INFORMATION BEFORE CONVICTION.

- Section 12145. When the Offense Is Not Capital.
 12146. Clerk Must Indorse Warrant.
 12147. When the Offense Is Capital.
 12148. Bail on Habeas Corpus.
 12149. Form of Undertaking.
 12150. Sections Applicable to Qualifications, etc.
 12151. Increase or Reduction of Bail.

12145. When the offense is not capital. When the offense charged is not punishable with death, the court at the time the indictment is presented and filed, or information filed, must make an order, to be entered in the minutes, fixing the amount in which the defendant may be admitted to bail, unless the court indorse such order on the warrant.

History: En. Sec. 2360, Pen. C. 1895; re-en. Sec. 9452, Rev. C. 1907. Cal. Pen. C. Sec. 1284.

12146. Clerk must indorse warrant. When the order fixing the amount of the bail is entered in the minutes, the clerk must indorse the same on the warrant.

History: En. Sec. 2361, Pen. C. 1895; re-en. Sec. 9453, Rev. C. 1907.

12147. When the offense is capital. If the offense charged is punishable with death, the officer arresting the defendant must deliver him into custody, according to the command of the warrant.

History: En. Sec. 2362, Pen. C. 1895; re-en. Sec. 9454, Rev. C. 1907. Cal. Pen. C. Sec. 1285.

12148. Bail on habeas corpus. When the defendant is so delivered into custody, he must be held by the sheriff, unless admitted to bail on examination upon a writ of habeas corpus.

History: En. Sec. 2363, Pen. C. 1895; re-en. Sec. 9455, Rev. C. 1907. Cal. Pen. C. Sec. 1286.

12149. Form of undertaking. The bail must be put in by a written undertaking, executed by two sufficient sureties (with or without the defendant, in the discretion of the court or magistrate) and acknowledged before the court or magistrate, in substantially the following form:

“An indictment (or information) having been found (or filed) on the day of, A. D. nineteen hundred and, in the district court of the district, in and for the county of, charging A B with the crime of (designating it generally), and he having been admitted to bail in the sum of dollars, we, C D and E F, of (stating their place of residence and occupation), hereby undertake that the above-named A B will appear and answer the indictment (or information) above mentioned, in whatever court it may be prosecuted, and will, at all times, render himself amenable to the orders and process of the court, and, if convicted, will appear for judgment and render himself in execution therefor; or, if he fails to perform either of these conditions, that we will pay to the State of Montana the sum of dollars” (inserting the sum in which the defendant is admitted to bail).

History: En. Sec. 2364, Pen. C. 1895; re-en. Sec. 9456, Rev. C. 1907. Cal. Pen. C. Sec. 1287.

12150. Sections applicable to qualifications, etc. The provisions contained in sections 12142, 12143, and 12144 apply to bail after indictment or information.

History: En. Sec. 2365, Pen. C. 1895; re-en. Sec. 9457, Rev. C. 1907. Cal. Pen. C. Sec. 1288.

12151. Increase or reduction of bail. After a defendant has been admitted to bail upon an indictment or information, the court in which

the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount be increased, the court may order the defendant to be committed to actual custody, unless he give bail in such increased amount. If application be made by the defendant for a reduction of the amount, notice of the application must be served upon the county attorney.

History: En. Sec. 2366, Pen. C. 1895; re-en. Sec. 9458, Rev. C. 1907. Cal. Pen. C. Sec. 1289.

CHAPTER 38.

BAIL ON APPEAL—DEPOSIT INSTEAD OF BAIL.

Section 12152. Who May Admit to Bail.

12153. Bail, Qualifications of, and Condition of Undertaking.

12154. Deposit, When and How Made.

12155. Exoneration of Bail by Deposit.

12156. Deposit to Be Applied to Payment of Judgment and Fine.

12152. Who may admit to bail. In cases in which defendant may be admitted to bail upon an appeal, the order admitting him to bail may be made by any magistrate having the power to issue a writ of habeas corpus, or by the magistrate before whom the trial was had.

History: En. Sec. 2370, Pen. C. 1895; re-en. Sec. 9459, Rev. C. 1907. Cal. Pen. C. Sec. 1291.

12153. Bail, qualifications of, and condition of undertaking. The bail must possess the qualifications, and must be put in, in all respects, as provided in sections 12140 to 12144 of this code, except that the undertaking must be conditioned as prescribed in section 12138, for undertaking of bail on appeal.

History: En. Sec. 2371, Pen. C. 1895; re-en. Sec. 9460, Rev. C. 1907. Cal. Pen. C. Sec. 1292.

12154. Deposit, when and how made. The defendant, at any time after an order admitting him to bail, instead of giving bail, may deposit with the clerk of the court in which he is held to answer the sum mentioned in the order, and, upon delivering to the officer in whose custody he is a certificate of the deposit, he must be discharged from custody.

History: En. Sec. 118, p. 235, Bannack 1887; amd. Sec. 2380, Pen. C. 1895; re-en. Stat.; re-en. Sec. 249, p. 228, Cod. Stat. Sec. 9461, Rev. C. 1907. Cal. Pen. C. Sec. 1871; re-en. Sec. 249, 3d Div. Rev. Stat. 1295.
1879; re-en. Sec. 250, 3d Div. Comp. Stat.

12155. Exoneration of bail by deposit. If the defendant has given bail, he may, at any time before the forfeiture of the undertaking, in like manner deposit the sum mentioned therein, and upon the deposit being made the bail is exonerated.

History: En. Sec. 2381, Pen. C. 1895; re-en. Sec. 9462, Rev. C. 1907. Cal. Pen. C. Sec. 1296.

12156. Deposit to be applied to payment of judgment and fine. When money has been deposited, if it remains on deposit at the time of a judgment for the payment of a fine, the clerk must, under direction of the

court, apply the money in satisfaction thereof, and, after satisfying the fine and costs, must refund the surplus, if any, to the defendant.

History: En. Sec. 2382, Pen. C. 1895; re-en. Sec. 9463, Rev. C. 1907. Cal. Pen. C. Sec. 1297.

CHAPTER 39.

SURRENDER OF DEFENDANT—FORFEITURE OF BAIL—RECOMMITMENT OF THE DEFENDANT.

- Section 12157. Surrender, by Whom, When, and How Made.
 12158. Defendant, How Surrendered.
 12159. Return of Deposit on Surrender.
 12160. How Forfeited, and How Forfeiture Discharged.
 12161. Default of Person Under Bail.
 12162. Surrender of Defendant.
 12163. What Will Not Bar Action on Bond.
 12164. Forfeiture to Be Enforced by Action.
 12165. Liability of Real Estate.
 12166. Deposit, When Forfeited, How Disposed of.
 12167. Arrest of Defendant, In What Cases.
 12168. Contents of Order.
 12169. Defendant May Be Arrested in Any County.
 12170. If for Failure to Appear, Defendant Must Be Committed.
 12171. If for Other Cause, He May Be Admitted to Bail.
 12172. Bail in Such Case, By Whom Taken.
 12173. Form of the Undertaking.
 12174. Bail Must Possess What Qualifications, and How Put In.

12157. Surrender, by whom, when, and how made. At any time before the forfeiture of their undertaking the bail may surrender the defendant in their exoneration, or he may surrender himself to the officer to whose custody he was committed at the time of giving bail, in the following manner:

1. A certified copy of the undertaking of the bail must be delivered to the officer, who must detain the defendant in his custody thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender.

2. Upon the undertaking and certificate of the officer, the court in which the action or appeal is pending may, upon notice of five days to the county attorney, with a copy of the undertaking and certificate, order that the bail be exonerated, and, on filing the order and the papers used on the application, they are exonerated accordingly.

History: En. Sec. 2390, Pen. C. 1895; re-en. Sec. 9464, Rev. C. 1907. Cal. Pen. C. Sec. 1300.

Note.—For earlier acts see sections 120 to 123, p. 235, Bannack Statutes; re-enacted as sections 251 to 254, p. 228, Codi-

fied Statutes 1871; re-enacted as sections 251 to 254, Third Division Revised Statutes 1879; re-enacted as sections 252 to 255, Third Division Compiled Statutes 1887.

12158. Defendant, how surrendered. For the purpose of surrendering the defendant, the bail, at any time before they are finally discharged, and at any place within the state, may themselves arrest him, or by a written authority indorsed on a certified copy of the undertaking, may empower any person of suitable age and discretion to do so.

History: En. Sec. 2391, Pen. C. 1895; re-en. Sec. 9465, Rev. C. 1907. Cal. Pen. C. Sec. 1301.

12159. Return of deposit on surrender. If money has been deposited instead of bail, and the defendant, at any time before the forfeiture thereof, surrenders himself to the officer to whom the commitment was directed, in the manner provided in the last two sections, the court must order a return of the deposit to the defendant, upon producing the certificate of the officer showing the surrender, and upon a notice of five days to the county attorney, with a copy of the certificate.

History: En. Sec. 2392, Pen. C. 1895; re-en. Sec. 9466, Rev. C. 1907. Cal. Pen. C. Sec. 1302.

12160. How forfeited, and how forfeiture discharged. If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the undertaking of bail, or the money deposited instead of bail, as the case may be, is thereupon forfeited. But if at any time before the final adjournment of the court, the defendant or his bail appear and satisfactorily excuse his neglect, the court may direct the forfeiture of the undertaking, or the deposit to be discharged upon such terms as may be just.

Related section: 11878.

History: Ap. p. Sec. 124, p. 236, Ban-nack Stat.; re-en. Sec. 255, p. 229, Cod. Stat. 1871; re-en. Sec. 255, 3d Div. Rev. Stat. 1879; re-en. Sec. 256, 3d Div. Comp. Stat. 1887; en. Sec. 2400, Pen. C. 1895; re-en. Sec. 9467, Rev. C. 1907. Cal. Pen. C. Sec. 1305.

In a suit to recover the amount of a bond given under this section for failure of a defendant to appear at the district court in accordance with the condition of

the bond, it is not necessary to allege in the complaint that the defendant made default of appearance "without excuse." State v. Wrote, 19 Mont. 209, 47 Pac. 898.

Where, in an action on a bail bond, it was shown that an information was filed against the defendant, charging him with a crime, and that he failed to appear and answer, and that the court thereupon ordered the bond forfeited, this section was sufficiently complied with. State v. Lagoni, 30 Mont. 472, 480, 76 Pac. 1044.

12161. Default of person under bail. When any person under bond or undertaking in any criminal action or proceeding, either to appear and answer, or to prosecute an appeal, or to testify in any court, fails to perform the condition of such bond or undertaking, his default must be entered in the minutes, and judgment entered against him for the amount of such bond or undertaking, and proceedings may be taken to recover judgment against any or all of the sureties thereto in any court having jurisdiction.

History: En. Sec. 2401, Pen. C. 1895; re-en. Sec. 9468, Rev. C. 1907.

While the district court may, under this section, summarily enter judgment against the person charged with crime who fails to appear according to the condition of his

bond, it exceeds its jurisdiction when it goes further than to authorize proceedings by the county attorney against the sureties by proper action, and at once enters judgment against them for the amount of the bond. State ex rel. Van v. District Court, 54 Mont. 577, 579, 172 Pac. 540.

12162. Surrender of defendant. Any surety on such bond or undertaking may be discharged from any liability thereon, at any time before final judgment against him, upon surrendering to the court or the proper officer the principal in such bond or undertaking, or by paying to the

clerk of the court the amount for which he was bound as surety, with such costs as the court shall direct.

History: En. Sec. 2402, Pen. C. 1895;
re-en. Sec. 9469, Rev. C. 1907.

Cited or applied as section 9469, Revised Codes, in State ex rel. Van v. District Court, 54 Mont. 577, 579, 172 Pac. 540.

12163. What will not bar action on bond. No action brought on a bond or undertaking is barred or defeated, nor shall judgment thereon be arrested by reason of any neglect or omission to note or record the default of any principal or surety at the term or session when such default happened, nor by reason of any defect in the form of the bond or undertaking, if it sufficiently appears, from the tenor thereof, at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take the same.

History: En. Sec. 2403, Pen. C. 1895;
re-en. Sec. 9470, Rev. C. 1907.

in the district court was equivalent to an averment that his default for not appearing was entered of record. State v. Wrote, 19 Mont. 209, 47 Pac. 898.

An averment in the complaint that the defendant was called and failed to appear

12164. Forfeiture to be enforced by action. If the forfeiture is not discharged, as provided in this article, the county attorney may at any time proceed by action only against the bail upon their undertaking.

History: En. Sec. 2404, Pen. C. 1895;
re-en. Sec. 9471, Rev. C. 1907. Cal. Pen. C. Sec. 1306.

Cited or applied as section 9471, Revised Codes, in State ex rel. Van v. District Court, 54 Mont. 577, 579, 172 Pac. 540.

12165. Liability of real estate. The real estate of all persons who sign or enter into any undertaking for the appearance of a person charged with any criminal offense is liable for the payment of any judgment which may be recovered thereon, and the judgment is a lien upon the property from the date of the undertaking. Nothing in this section prohibits the issuing of execution and the enforcing the collection thereof out of any other property of the sureties.

History: En. Sec. 2405, Pen. C. 1895; re-en. Sec. 9472, Rev. C. 1907.

12166. Deposit, when forfeited, how disposed of. If, by reason of the neglect of the defendant to appear, money deposited instead of bail is forfeited, and the forfeiture is not discharged or remitted, the clerk with whom it is deposited must, immediately after the final adjournment of the court for the term or session, pay over the money deposited to the county treasurer.

History: En. Sec. 2406, Pen. C. 1895; re-en. Sec. 9473, Rev. C. 1907. Cal. Pen. C. Sec. 1307.

12167. Arrest of defendant, in what cases. The court to which the committing magistrate returns the complaint, or in which an indictment, information, or appeal is pending, or to which a judgment on appeal is remitted to be carried into effect, may, by an order entered upon its minutes, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases:

1. When, by reason of his failure to appear, he has incurred a forfeiture of his bail, or of money deposited instead thereof.

2. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the state.

3. Upon an indictment being found or information filed.

History: En. Sec. 263, p. 230, Cod. Stat. 1887; amd. Sec. 264, 3d Div. Comp. Stat. 1887; amd. 1871; amd. Sec. 1, p. 45, L. 1873; re-en. Sec. 2420, Pen. C. 1895; re-en. Sec. 9474, Sec. 263, 3d Div. Rev. Stat. 1879; re-en. Rev. C. 1907. Cal. Pen. C. Sec. 1310.

12168. Contents of order. The order for the recommitment of the defendant must recite generally the facts upon which it is founded, and direct that the defendant be arrested by any sheriff, constable, marshal, or policeman in this state, and committed to the officer in whose custody he was at the time he was admitted to bail, to be detained until legally discharged.

History: En. Sec. 264, p. 230, Cod. Stat. 1887; amd. Sec. 2421, Pen. C. 1895; re-en. 1871; re-en. Sec. 264, 3d Div. Rev. Stat. Sec. 9474, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 265, 3d Div. Comp. Stat. 1311.

12169. Defendant may be arrested in any county. The defendant may be arrested pursuant to the order, upon a certified copy thereof, in any county, in the same manner as upon a warrant of arrest.

History: En. Sec. 265, p. 230, Cod. Stat. 1887; re-en. Sec. 2422, Pen. C. 1895; re-en. 1871; re-en. Sec. 265, 3d Div. Rev. Stat. Sec. 9476, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 266, 3d Div. Comp. Stat. 1312.

12170. If for failure to appear, defendant must be committed. If the order recites, as the ground upon which it is made, the failure of the defendant to appear for judgment upon conviction, the defendant must be committed according to the requirement of the order.

History: En. Sec. 266, p. 230, Cod. Stat. 1887; re-en. Sec. 2423, Pen. C. 1895; re-en. 1871; re-en. Sec. 266, 3d Div. Rev. Stat. Sec. 9477, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 267, 3d Div. Comp. Stat. 1313.

12171. If for other cause, he may be admitted to bail. If the order be made for any other cause, and the offense is bailable, the court may fix the amount of bail, and may cause a direction to be inserted in the order that the defendant be admitted to bail in the sum fixed, which must be specified in the order.

History: En. Sec. 267, p. 230, Cod. Stat. 1887; re-en. Sec. 2424, Pen. C. 1895; re-en. 1871; re-en. Sec. 267, 3d Div. Rev. Stat. Sec. 9478, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 268, 3d Div. Comp. Stat. 1314.

12172. Bail in such case, by whom taken. When the defendant is admitted to bail, the bail may be taken by any magistrate in the county having authority in a similar case to admit to bail, upon the holding of the defendant to answer before information filed or by any other magistrate designated by the court.

History: Ap. p. Sec. 268, p. 230, Cod. Stat. 1887; en. Sec. 2425, Pen. C. 1895; Stat. 1871; re-en. Sec. 268, 3d Div. Rev. re-en. Sec. 9479, Rev. C. 1907. Cal. Pen. C. Stat. 1879; re-en. Sec. 269, 3d Div. Comp. Sec. 1315.

12173. Form of the undertaking. When bail is taken upon the recommitment of the defendant, the undertaking must be substantially in the following form:

"An order having been made on the day of, A. D. nineteen hundred and, by the court (naming it) that A B be admitted to bail in the sum of dollars, in an action pending in that court against him in behalf of the state of Montana, upon an (information, indictment, or appeal, as the case may be), we, C D and E F, of (stating their place of residence and occupation), hereby undertake that the above named A B will appear in that or any other court in which his appearance may be lawfully required, upon the (information, indictment, or appeal, as the case may be) and will at all times render himself amenable to its orders and process, and appear for judgment and surrender himself in execution thereof; or, if he fails to perform either of these conditions, that we will pay to the state of Montana the sum of dollars" (insert the sum in which the defendant is admitted to bail).

History: En. Sec. 2426, Pen. C. 1895; re-en. Sec. 9480, Rev. C. 1907. Cal. Pen. C. Sec. 1316.

12174. Bail must possess what qualifications, and how put in. The bail must possess the qualifications, and must be put in, in all respects, in the manner prescribed in sections 12140 to 12144 of this code.

History: En. Sec. 2427, Pen. C. 1895; re-en. Section 9481, Rev. C. 1907. Cal. Pen. C. Sec. 1317.

CHAPTER 40.

WHO MAY BE WITNESS IN CRIMINAL ACTIONS.

Section 12175. Who Are Competent Witnesses.

12176. Competency of Husband and Wife as Witnesses.

12177. When the Defendant Is Not a Competent Witness, and When He May Testify.

12178. Testimony of One Not to Be Used Against the Other.

12175. Who are competent witnesses. The rules for determining the competency of witnesses in civil actions are applicable also to criminal actions and proceedings, except as otherwise provided in this code.

History: En. Sec. 2440, Pen. C. 1895; re-en. Sec. 9482, Rev. C. 1907. Cal. Pen. C. Sec. 1321.

A boy fifteen years of age, called as a witness, who answers that he understood what he had done when he took the oath, that he knows the difference between

truth and falsehood, that the truth was that which was so, and not that which was not so, and that he knew that if he did not tell the truth he would be punished, sufficiently qualifies himself to testify in a criminal case. *State v. Cadotte*, 17 Mont. 315, 316, 42 Pac. 857.

12176. Competency of husband and wife as witnesses. Except with the consent of both, or in cases of criminal violence upon one by the other, or in case of abandonment, or neglect of children by either party, or of abandonment or neglect of the wife by the husband, neither husband nor wife is a competent witness for or against the other in a criminal action or proceeding to which one or both are parties.

Related section: 10536.

History: En. Sec. 2441, Pen. C. 1895; re-en. Sec. 9483, Rev. C. 1907; amd. Sec. 1, Ch. 111, L. 1915. Cal. Pen. C. Sec. 1322.

Under this section, as amended, a wife was competent to testify in a prosecution

against her husband for attempted murder. *State v. Rains*, 53 Mont. 424, 164 Pac. 540.

Compelling defendant in criminal case to object to spouse testifying as reversible error, see note in Ann. Cas. 1915D, 362.

12177. When the defendant is not a competent witness, and when he may testify. A defendant in a criminal action or proceeding cannot be

compelled to be a witness against himself; but he may be sworn, and may testify in his own behalf, and the jury in judging of his credibility and the weight to be given to his testimony, may take into consideration the fact that he is the defendant, and the nature and enormity of the crime of which he is accused. If the defendant does not claim the right to be sworn, or does not testify, it must not be used to his prejudice, and the attorney prosecuting must not comment to the court or jury on the same.

Related section: 11613.

History: En. Sec. 15, p. 271, *Cod. Stat.* 1871; re-en. Sec. 15, 4th Div. Rev. Stat. 1879; re-en. Sec. 15, 4th Div. Comp. Stat. 1887; amd. Sec. 2442, Pen. C. 1895; re-en. Sec. 9484, Rev. C. 1907. Cal. Pen. C. Sec. 1323.

A disbarment proceeding is not a criminal prosecution, but a special proceeding of a civil nature, and the court is not therefore precluded under this section from taking into consideration the accused's failure to be sworn in his own behalf. In re Welcome 23 Mont. 450, 468, 59 Pac. 445.

An instruction giving this section, which uses the word "must" in place of the statutory word "may," is not erroneous. State v. Dotson, 26 Mont. 305, 311, 67 Pac. 938.

An instruction, submitted to the jury in a criminal cause, embodying the provisions of this section, was not open to the objection that it practically deprived him of the presumption of innocence which attends him until his guilt is established beyond a reasonable doubt. State v. Farnham, 35 Mont. 375, 379, 89 Pac. 728.

While it is the general rule that a court ought not in its instructions single out a particular witness and direct the attention of the jury to his testimony, this section makes an exception to the rule, and the court may properly instruct that the jury, in judging the credibility of one on trial for a crime and the weight to be given to his testimony, may take into consideration the fact that he is the defendant, and the nature and enormity of the crime of which he stands charged. State v. De Lea, 36 Mont. 531, 541, 93 Pac. 814.

Where defendant in a criminal prosecution takes the stand as a witness in his own behalf, and testifies that he did not commit the crime imputed to him, he waives his constitutional privilege, and cannot refuse to testify to any facts which would be competent evidence in the case, if proved by other witnesses. State v. Smith, 57 Mont. 349, 188 Pac. 644.

Cited or applied as section 9484, Revised Codes, in State v. Sparks, 40 Mont. 82, 88, 105 Pac. 87, 135 Am. St. Rep. 608, 19 Ann. Cas. 1279; State v. Inich, 55 Mont. 1, 14, 173 Pac. 230.

12178. Testimony of one not to be used against the other. When two or more persons are jointly, or otherwise, concerned in the commission of an offense, any one of such persons may testify for or against the other in relation to the offense committed, but the testimony of such witness must not be used against him in any criminal action or proceeding.

History: En. Sec. 14, p. 271, *Cod. Stat.* 1871; re-en. Sec. 14, 4th Div. Rev. Stat. 1879; re-en. Sec. 14, 4th Div. Comp. Stat. 1887; amd. Sec. 2443, Pen. C. 1895; re-en. Sec. 9485, Rev. C. 1907.

An accomplice is a competent witness against an accused, although his testimony was obtained by threats or inducements. Such facts bear upon his credibility only, and not upon his competency, and his testimony is not subject to the rules govern-

ing admissions by a prisoner accused and on trial. Very great latitude should be allowed in the cross-examination of an accomplice. State v. Geddes, 22 Mont. 68, 89, 55 Pac. 919.

Dismissal of prosecution against one defendant to qualify him as a witness against others, see note in 35 L. R. A. 710.

Competency of accomplice as affected by agreement for immunity, see note in 24 L. R. A. (N. S.) 445.

CHAPTER 41.

COMPELLING THE ATTENDANCE OF WITNESSES.

Section 12179. Subpoena Defined, and Who May Issue.

12180. Form of Subpoena.

12181. Subpoena, by Whom and How Served.

12182. Expenses of Witness From Without the County, or Poor.

12183. Attendance of Witness Residing or Served Out of the County.

12184. Disobedience to Subpoena, etc.

12185. Failure to Appear, Undertaking Forfeited.

12186. Temporary Removal of Imprisoned Witnesses.

12179. Subpoena defined, and who may issue. The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by—

1. A magistrate before whom a complaint is laid, for witnesses in the state, either on behalf of the state or of the defendant;

2. The county attorney, for witnesses in the state, in support of the prosecution, or for such other witnesses as the grand jury, upon an investigation pending before them, may direct;

3. The county attorney, for witnesses in the state, in support of an indictment or information, to appear before the court in which it is to be tried;

4. The clerk of the court in which an indictment or information is to be tried; and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him as clerk, for witnesses in the state, as the defendant may require, under the direction of the court or judge.

History: En. Sec. 2460, Pen. C. 1895; re-en. Sec. 9486, Rev. C. 1907. Cal. Pen. C. Sec. 1326.

Power to regulate or restrict constitutional right of defendant in criminal cases to compulsory process to procure attendance of witnesses in his behalf, see note in 33 L. R. A. (N. S.) 976.

Cited or applied as section 9486, Revised Codes, in State ex rel. Wolfe v. District Court et al., 52 Mont. 556, 160 Pac. 346.

12180. Form of subpoena. A subpoena authorized by the last section must be substantially in the following form:

“The State of Montana to A B:

“You are commanded to appear before C D, a justice of the peace of township, in county (or as the case may be) at (naming the place), on (stating the day and hour), as a witness in a criminal action prosecuted by the State of Montana against E F.

“Given under my hand this day of, A. D. nineteen hundred and, G H, justice of the peace” (or “J K, county attorney,” or “by order of the court, L M, clerk”; or as the case may be).

If books, papers, or documents are required, a direction to the following effect must be contained in the subpoena: “And you are required, also, to bring with you the following” (describing intelligibly the books, papers, or documents required).

History: En. Sec. 2461, Pen. C. 1895; re-en. Sec. 9487, Rev. C. 1907. Cal. Pen. C. Sec. 1327.

12181. Subpoena, by whom and how served. A subpoena may be served by any person, but a peace officer must serve in his county any subpoena delivered to him for service, either on the part of the state or of the defendant, and must without delay, make a written return of the service, subscribed by him, stating the time and place of service. The service is made by showing the original to the witness personally, and informing him of its contents.

History: En. Sec. 2462, Pen. C. 1895; re-en. Sec. 9488, Rev. C. 1907. Cal. Pen. C. Sec. 1328.

12182. Expenses of witness from without the county, or poor. When a person attends before a magistrate, grand jury, or court, as a witness

in a criminal case, upon a subpoena or in pursuance of an undertaking, and it appears that he has come from a place outside of the county, or that he is poor and unable to pay the expenses of such attendance, the court, at its discretion, if the attendance of the witness be upon a trial, by an order upon its minutes, or in any other case, the judge, at his discretion, by a written order, may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

History: En. Sec. 2463, Pen. C. 1895; re-en. Sec. 9489, Rev. C. 1907. Cal. Pen. C. Sec. 1329.

12183. Attendance of witness residing or served out of the county. No person is obliged to attend as a witness before a court or magistrate out of the county where the witness resides, or is served with the subpoena, unless the judge of the court in which the offense is triable, or a justice of the supreme court, or a judge of the district court, upon an affidavit of the county attorney or prosecutor, or of the defendant, or his counsel, stating that he believes the evidence of the witness is material, and his attendance at the examination, or trial, necessary, shall indorse on the subpoena an order for the attendance of the witness.

History: En. Sec. 2464, Pen. C. 1895; re-en. Sec. 9490, Rev. C. 1907. Cal. Pen. C. Sec. 1330.

12184. Disobedience to subpoena, etc. Disobedience to a subpoena, or a refusal to be sworn or to testify as a witness, may be punished by the court or magistrate as a contempt. A witness disobeying a subpoena issued on the part of the defendant, unless he show good cause for his nonattendance, is liable to the defendant in the sum of one hundred dollars, which may be recovered in a civil action.

History: En. Sec. 2465, Pen. C. 1895; re-en. Sec. 9491, Rev. C. 1907. Cal. Pen. C. Sec. 1331.

12185. Failure to appear, undertaking forfeited. When a witness has entered into an undertaking to appear, upon his failure to do so the undertaking is forfeited in the same manner as undertakings of bail.

History: En. Sec. 2466, Pen. C. 1895; re-en. Sec. 9492, Rev. C. 1907. Cal. Pen. C. Sec. 1332.

12186. Temporary removal of imprisoned witnesses. When the testimony of a material witness for the state is required in a criminal action, before a court of record of this state, and such witness is a prisoner in the state prison, or in a county jail, an order for his temporary removal from such prison or jail, and for his production before such court, may be made by the court in which the action is pending, or by the judge thereof; but in case the prison or jail is out of the county in which the application is made, such order shall only be made upon affidavit of the county attorney, or other person, on behalf of the state, showing that the testimony is material and necessary; and even then the granting of the order shall be in the discretion of the court or judge. The order must be executed by the sheriff of the county in which it is made, whose duty it shall be to bring the prisoner before the proper court, to safely keep him, and when he is no longer required as a witness, to return him to the prison

or jail whence he was taken; the expense of executing such order shall be paid by the county in which the order shall be made.

Related section: 12432.

re-en. Sec. 9493, Rev. C. 1907. Cal. Pen.

History: En. Sec. 2467, Pen. C. 1895; C. Sec. 1333.

CHAPTER 42.

EXAMINATION OF WITNESSES CONDITIONALLY.

- Section 12187. State or Defendant May Examine Witness Conditionally.
 12188. Depositions of Material Witnesses.
 12189. Affidavit for Deposition.
 12190. Notice of Application.
 12191. Order to Take Deposition.
 12192. Duty of Magistrate to Take Deposition.
 12193. Rights of Defendant.
 12194. Compelling Attendance of Witness.
 12195. Reduction of Testimony to Writing.
 12196. Filing Deposition.
 12197. When Deposition May Be Read.
 12198. Deposition of Witness in Jail.

12187. State or defendant may examine witness conditionally. When a defendant has been held to answer a charge for a public offense, he, and the state, may, in all cases, either before or after an information has been filed or after an indictment has been found, have witnesses examined conditionally, on his or its behalf, as prescribed in this chapter, and not otherwise.

History: En. Sec. 2480, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9494, Rev. C. 1907. Cal. Pen. C. Sec. 1335.

mation has been filed against him. *State v. Vanella*, 40 Mont. 326, 337, 106 Pac. 364, 20 Ann. Cas. 398.

There is not any limitation as to the time when depositions in criminal cases may be taken, and this and the following section at least imply that they may be taken at any time after the defendant has been held to answer the charge, even before an infor-

Depositions in criminal cases, see notes in Ann. Cas. 1916A, 1066, 1099, 1102, 1108, 1111, 1124.

Competency, in criminal cases, of former testimony of absent witness, see note in 1 Ann. Cas. 471.

12188. Depositions of material witnesses. When a material witness for the defendant or the state cannot give security for his appearance at the trial, the defendant or the state may apply to the district court of the county or district in which the offense is alleged to have been committed for an order to take his deposition.

History: En. Sec. 2481, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9495, Rev. C. 1907. Cal. Pen. C. Sec. 1336.

Cited or applied as section 9495, Revised Codes, in *State v. Vanella*, 40 Mont. 326, 337, 106 Pac. 364, 20 Ann. Cas. 398.

12189. Affidavit for deposition. The application must be made upon affidavit stating—

1. The nature of the offense charged;
2. The state of the proceedings in the action;
3. The name and residence of the witness, and that his testimony is material to the defense, or prosecution of the action;
4. That the witness cannot give security for his appearance at the time of the trial.

History: En. Sec. 2482, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9496, Rev. C. 1907. Cal. Pen. C. Sec. 1337.

12190. Notice of application. The application must be made to the court or judge thereof upon not less than three days' notice to the opposite party.

History: En Sec. 2483, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9497, Rev. C. 1907. Cal. Pen. C. Sec. 1338.

12191. Order to take deposition. If the court or judge thereof is satisfied that the examination of the witness is necessary, an order must be made that his deposition shall be taken, at a specified time and place, and before a magistrate designated therein, and that a copy of the order be served on the opposite party, within a time specified before that fixed for the examination.

History: En Sec. 2484, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9498, Rev. C. 1907. Cal. Pen. C. Sec. 1339.

12192. Duty of magistrate to take deposition. On proof being furnished to such magistrate by affidavit or otherwise that a copy of the order has been served upon the opposite party, the examination must proceed.

History: En Sec. 2485, Pen. C. 1895; re-en. Sec. 9499, Rev. C. 1907.

12193. Rights of defendant. The defendant has the right to be present in person and with counsel at such examination, and, if the defendant is in custody, the officer in whose custody he is must be informed of the time and place of such examination, and must take the defendant thereto, and keep him in the presence and hearing of the witness during the examination. The defendant, if in custody, shall be brought before the judge or the court to whom the application is made to take the deposition, and be present at the hearing. If it appears to the judge or court that the defendant is without an attorney and unable to employ one, the court shall appoint an attorney to appear for him at the hearing and upon the trial of the case. It shall be the duty of the attorney so appointed to be present at such hearing.

History: Ap. p. Sec. 2486, Pen. C. 1895; en. Sec. 1, Ch. 109, L. 1907; Sec. 9500, Rev. C. 1907. Cal. Pen. C. Sec. 1340.

12194. Compelling attendance of witness. The attendance of the witness may be enforced by a subpoena, issued by the magistrate before whom the examination is to be taken, or by the court or judge making the order.

History: En. Sec. 2487, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9501, Rev. C. 1907. Cal. Pen. C. Sec. 1342.

12195. Reduction of testimony to writing. The testimony given by the witness must be reduced to writing, and authenticated in the same manner as a deposition in a civil action.

History: En. Sec. 2488, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9502, Rev. C. 1907. Cal. Pen. C. Sec. 1343.

12196. Filing deposition. The deposition must, by the magistrate, be sealed up and transmitted to the clerk of the court making the order, there to be filed and held until the action shall come on for trial.

History: En. Sec. 2489, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9403, Rev. C. 1907. Cal. Pen. C. Sec. 1344.

12197. When deposition may be read. The deposition, or a certified copy thereof, may be read in evidence in any court in this state by either party on the trial, upon it appearing that the witness is dead or is absent from the state, and the same objections may be made to the deposition at the trial as if the witness had been examined in court.

History: En. Sec. 2490, Pen. C. 1895; Cited or applied as section 9504, Revised
amd. Sec. 1, Ch. 109, L. 1907; Sec. 9504, Codes, in *State v. Vanella*, 40 Mont. 326,
Rev. C. 1907. Cal. Pen. C. Sec. 1345. 332, 106 Pac. 364, 20 Ann. Cas. 398.

12198. Deposition of witness in jail. When a material witness for a defendant, under a criminal charge, is a prisoner in the state prison, or in a county jail of a county other than that in which the defendant is to be tried, his deposition may be taken, on behalf of the defendant, in the manner provided for in the case of a witness who cannot give security for his appearance at the trial, and the provisions of sections 12187 to 12197 of this code shall, so far as applicable, govern the application for and in the taking and use of such deposition. Such deposition may be taken before any magistrate or notary public of the county of which the jail or prison is situate; or in case the witness is confined in the state prison, and the defendant is unable to pay for taking the deposition, it may be taken before the warden of the state prison, whose duty it shall be to act without compensation. Every officer, before whom testimony shall be taken under this chapter, shall have authority to administer, and shall administer, an oath to the witness that his testimony shall be the truth, the whole truth and nothing but the truth.

History: En. Sec. 2491, Pen. C. 1895; amd. Sec. 1, Ch. 109, L. 1907; Sec. 9505, Rev. C. 1907. Cal. Pen. C. Sec. 1346.

CHAPTER 43.

EXAMINATION OF WITNESSES ON COMMISSION.

- Section** 12199. Examination of Witness Residing Out of the State.
12200. When Defendant May Apply for an Order to Examine.
12201. Commission Defined.
12202. Application Made on Affidavit.
12203. Application, to Whom Made.
12204. Order for Commission, When Granted, Stay of Proceedings.
12205. Interrogatories, How Settled and Allowed.
12206. Direction as to the Return of the Commission.
12207. Commission, How Executed.
12208. Returned Commission, Delivery to an Agent.
12209. Same.
12210. When and How Filed.
12211. Commission and Return, Open for Inspection—Copies, etc.
12212. Depositions to Be Read in Evidence—Objections.

12199. Examination of witness residing out of the state. When an issue of fact is joined upon an indictment or information, the defendant may have any material witness residing out of the state, examined in his behalf, as prescribed in this chapter, and not otherwise.

History: En. Sec. 2500, Pen. C. 1895; re-en. Sec. 9506, Rev. C. 1907. Cal. Pen. C. Sec. 1349.

12200. When defendant may apply for an order to examine. When a material witness for the defendant resides out of the state, the defend-

ant may apply for an order that the witness be examined on a commission.

History: En. Sec. 2501, Pen. C. 1895; re-en. Sec. 9507, Rev. C. 1907. Cal. Pen. C. Sec. 1350.

12201. Commission defined. A commission is a process issued under seal of the court and the signature of the clerk, directed to some person designated as commissioner, authorizing him to examine the witness upon oath or interrogatories annexed thereto, to take and certify the deposition of the witness, and to return it according to the directions given with the commission.

History: En. Sec. 2502, Pen. C. 1895; re-en. Sec. 9508, Rev. C. 1907. Cal. Pen. C. Sec. 1351.

12202. Application made on affidavit. The application must be made upon affidavit stating—

1. The nature of the offense charged;
2. The state of the proceedings in the action, and that an issue of fact has been joined therein;
3. The name of the witness, and that his testimony is material to the defense of the action;
4. That the witness resides out of the state.

History: En. Sec. 2503, Pen. C. 1895; re-en. Sec. 9509, Rev. C. 1907. Cal. Pen. C. Sec. 1352.

12203. Application, to whom made. The application may be made to the court or a judge thereof, and must be upon three days' notice to the county attorney.

History: En. Sec. 2504, Pen. C. 1895; re-en. Sec. 9510, Rev. C. 1907. Cal. Pen. C. Sec. 1353.

12204. Order for commission, when granted, stay of proceedings. If the court to whom the application is made is satisfied of the truth of the facts stated, and that the examination of the witness is necessary to the attainment of justice, an order must be made that a commission be issued to take his testimony; and the court may insert in the order a direction that the trial be stayed for a specified time, reasonably sufficient for the execution and return of the commission.

History: En. Sec. 2505, Pen. C. 1895; re-en. Sec. 9511, Rev. C. 1907. Cal. Pen. C. Sec. 1354.

12205. Interrogatories, how settled and allowed. When the commission is ordered, the defendant must serve upon the county attorney, without delay, a copy of the interrogatories to be annexed thereto, with two days' notice of the time at which they will be presented to the court or judge. The county attorney may in like manner serve upon the defendant or his counsel cross-interrogatories, to be annexed to the commission, with the like notice. In the interrogatories either party may insert any questions pertinent to the issue. When the interrogatories and cross-interrogatories are presented to the court or judge, according to the notice given, the court or judge must modify the questions so as to

conform them to the rules of evidence, and must indorse upon them his allowance and annex them to the commission.

History: En. Sec. 2506, Pen. C. 1895; re-en. Sec. 9512, Rev. C. 1907. Cal. Pen. C. Sec. 1355.

12206. Direction as to the return of the commission. Unless the parties otherwise consent, by an indorsement upon the commission, the court or judge must indorse thereon a direction as to the manner in which it must be returned, and may, in his discretion, direct that it be returned by mail or otherwise, addressed to the clerk of the court in which the action is pending, designating his name and the place where his office is kept.

History: En. Sec. 2507, Pen. C. 1895; re-en. Sec. 9513, Rev. C. 1907. Cal. Pen. C. Sec. 1356.

12207. Commission, how executed. The commissioner, unless otherwise specially directed, may execute the commission as follows:

1. He must publicly administer an oath to the witness that his answers given to the interrogatories shall be the truth, the whole truth, and nothing but the truth.

2. He must cause the examination of the witness to be reduced to writing, and subscribed by him.

3. He must write the answers of the witness as near as possible in the language in which he gives them, and read to him each answer as it is taken down, and correct or add to it until it conforms to what he declares is the truth.

4. If the witness decline answering a question, that fact, with the reason assigned by him for declining, must be stated.

5. If any papers or documents are produced before him and proved by the witness, they, or copies of them, must be annexed to the deposition subscribed by the witness and certified by the commissioner.

6. The commissioner must subscribe his name to each sheet of the deposition, and annex the deposition, with the papers and documents proved by the witness, or copies thereof, to the commission, and must close it up under seal, and address it as directed by the indorsement thereon.

7. If there be a direction on the commission to return it by mail the commissioner must immediately deposit it in the nearest postoffice. If any other direction be made by the written consent of the parties, or by the court or judge, on the commission, as to its return, the commissioner must comply with the direction. A copy of this section must be annexed to the commission.

History: En. Sec. 2508, Pen. C. 1895; re-en. Sec. 9514, Rev. C. 1907. Cal. Pen. C. Sec. 1357.

12208. Returned commission, delivery to an agent. If the commission and return be delivered by the commissioner to an agent, he must deliver the same to the clerk to whom it is directed, or to the judge of the court in which the action is pending, by whom it may be received and opened, upon the agent making affidavit that he received it from the

hands of the commissioner, and that it has not been opened or altered since he received it.

History: En. Sec. 2509, Pen. C. 1895; re-en. Sec. 9515, Rev. C. 1907. Cal. Pen. C. Sec. 1358.

12209. Same. If the agent is dead, or from sickness or other casualty unable personally to deliver the commission and return, as prescribed in the last section, it may be received by the clerk or judge from any other person, upon his making affidavit that he received it from the agent, that the agent is dead, or from sickness or other casualty unable to deliver it; that it has not been opened or altered since the person making the affidavit received it; and that he believes it has not been opened or altered since it came from the hands of the commissioner.

History: En. Sec. 2510, Pen. C. 1895; re-en. Sec. 9516, Rev. C. 1907. Cal. Pen. C. Sec. 1359.

12210. When and how filed. The clerk or judge receiving and opening the commission and return must immediately file it, with the affidavit mentioned in the last two sections, in the office of the clerk of the court in which the indictment is pending or information filed. If the commission and return is transmitted by mail, the clerk to whom it is addressed must receive it from the postoffice, and open and file it in his office, where it must remain, unless otherwise directed by the court or judge.

History: En. Sec. 2511, Pen. C. 1895; re-en. Sec. 9517, Rev. C. 1907. Cal. Pen. C. Sec. 1360.

12211. Commission and return, open for inspection—Copies, etc. The commission and return must at all times be open to the inspection of the parties, who must be furnished by the clerk with copies of the same or any part thereof, on payment of his fees.

History: En. Sec. 2512, Pen. C. 1895; re-en. Sec. 9518, Rev. C. 1907. Cal. Pen. C. Sec. 1361.

12212. Depositions to be read in evidence—Objections. The depositions taken under the commission may be read in evidence by either party on the trial, upon it being shown that the witness is unable to attend from any cause whatever; and the same objections may be taken to a question in the interrogatories or to an answer in the deposition, as if the witness had been examined orally in court.

History: En. Sec. 2513, Pen. C. 1895; re-en. Sec. 9519, Rev. C. 1907. Cal. Pen. C. Sec. 1362.

CHAPTER 44.

PROCEEDINGS ON INQUIRY AS TO THE SANITY OF A DEFENDANT.

Section 12213. Insane Person Cannot Be Tried or Punished.

12214. Doubts as to Sanity of the Defendant, How Determined—Stay of Proceedings on.

12215. Trial of the Question of Insanity—Charge of Court.

12216. Verdict of the Jury as to Sanity, and Proceedings Thereon.

12217. If Defendant Is Committed, It Exonerates His Bail, etc.

12218. Defendant Detained in Asylum Until He Becomes Sane.

12219. Expense of Sending, etc., Defendant to Asylum.

12213. Insane person cannot be tried or punished. A person cannot be tried, adjudged to punishment, or punished for a public offense while he is insane.

History: En. Sec. 2520, Pen. C. 1895; re-en. Sec. 9520, Rev. C. 1907. Cal. Pen. C. Sec. 1367.

Third Division Revised Statutes 1879; re-enacted as sections 465 to 469, Third Division Compiled Statutes 1887.

Note.—For earlier acts see sections 463 to 467, pp. 259 and 260, Codified Statutes 1871; re-enacted as sections 463 to 467,

Cited or applied as section 2520, Penal Code, in *State ex rel. Dempsey v. District Court*, 24 Mont. 566, 567, 63 Pac. 389.

12214. Doubts as to sanity of the defendant, how determined—Stay of proceedings on. When an action is called for trial, or at any time during the trial, or when the defendant is brought up for judgment on conviction, if a doubt arises as to the sanity of the defendant, the court must order the question as to his sanity to be submitted to a jury, which must be drawn and selected as in other cases; and the trial or the pronouncing of the judgment must be suspended until the question is determined by their verdict, and the trial jury may be discharged or retained, according to the discretion of the court, during the pendency of the issue of insanity.

History: En. Sec. 2521, Pen. C. 1895; re-en. Sec. 9521, Rev. C. 1907. Cal. Pen. C. Sec. 1368.

The doubt mentioned in this section is one arising in the mind of the presiding judge, and must be left to his judicial conscience. Unless there be a doubt in the mind of the judge *a quo*—a doubt which he must legally determine as he would determine any other matter of grave import before him—he will not be warranted in calling a special jury to try the issue. *State v. Howard*, 30 Mont. 518, 528, 77 Pac. 50.

Where the question of the defendant's present sanity is presented, it is within the sound discretion of the court to determine whether the matter should be inquired into in a special proceeding under the provisions of this section, whereas the question of the defendant's sanity at the time of the commission of the offense should be tried by the jury impaneled to pass upon his guilt or innocence of the crime charged. *State v. Peterson*, 25 Mont. 81, 63 Pac. 799.

Time or stage when question of insanity of defendant may be determined by inquisition or otherwise, see notes in 4 Ann. Cas. 393; Ann. Cas. 1916E, 424.

12215. Trial of the question of insanity—Charge of court. The trial of the question of insanity must proceed in the following order:

1. The counsel for the defendant must open the case and offer evidence in support of the allegation of insanity.

2. The counsel for the state may then open their case, and offer evidence in support thereof.

3. The parties then may respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original cause.

4. When the evidence is concluded, unless the case is submitted to the jury on either or both sides without argument, the counsel for the state must commence, and the defendant or his counsel may conclude the argument to the jury.

5. If the indictment or information be for an offense punishable with death, two counsel on each side may argue the cause to the jury, in which case they must do so alternately. In other cases, the argument may be restricted to one counsel on each side.

6. The court must then charge the jury, stating to them all matters of law necessary for their information in giving their verdict.

History: En. Sec. 2522, Pen. C. 1895; Burden and quantum of proof on issue of insanity in criminal cases, see notes in re-en. Sec. 9522, Rev. C. 1907. Cal. Pen. C. 3 Ann. Cas. 926; 15 Ann. Cas. 95. Sec. 1369.

12216. Verdict of the jury as to sanity, and proceedings thereon. If the jury find the defendant sane, the trial must proceed, or judgment be pronounced, as the case may be. If the jury find the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court must order that he be in the meantime committed by the sheriff to the state insane asylum, and that upon his becoming sane he be redelivered to the sheriff.

History: En. Sec. 2523, Pen. C. 1895; re-en. Sec. 9523, Rev. C. 1907. Cal. Pen. C. Sec. 1370.

12217. If defendant is committed, it exonerates his bail, etc. The commitment of the defendant, as mentioned in the last section, exonerates his bail, or entitles a person, authorized to receive the property of the defendant, to a return of any money he may have deposited instead of bail.

History: En. Sec. 2524, Pen. C. 1895; re-en. Sec. 9524, Rev. C. 1907. Cal. Pen. C. Sec. 1371.

12218. Defendant detained in asylum until he becomes sane. If the defendant is received into the asylum he must be detained there until he becomes sane. When he becomes sane, the superintendent must give notice of that fact to the sheriff and county attorney of the county. The sheriff must thereupon, without delay, bring the defendant from the asylum, and place him in proper custody until he is brought to trial or judgment, as the case may be, or is legally discharged. The sheriff must receive the actual expenses incurred and no more.

History: En. Sec. 2525, Pen. C. 1895; re-en. Sec. 9525, Rev. C. 1907. Cal. Pen. C. Sec. 1372.

12219. Expense of sending, etc., defendant to asylum. The expenses of sending the defendant to the asylum, of keeping him there, and of bringing him back, are in the first instance chargeable to the county in which the indictment was found, or the information filed; but the county may recover them from the estate of the defendant, if he have any, or from a relative, town, city, or county bound to provide for and maintain him elsewhere.

History: En. Sec. 2526, Pen. C. 1895; Cited or applied as section 2526, Penal re-en. Sec. 9526, Rev. C. 1907. Cal. Pen. Code, in State ex rel. Dempsey v. District C. Sec. 1373. Court, 24 Mont. 566, 567, 63 Pac. 389.

CHAPTER 45.

COMPROMISING OFFENSES BY LEAVE OF COURT.

Section 12220. Compromise of Offense for Which Civil Action May Be Had.

12221. Compromise by Permission of the Court Bars Another Prosecution.

12222. No Public Offense to Be Compromised Except.

12220. Compromise of offense for which civil action may be had. When a defendant is held to answer on a charge of misdemeanor, for which the

person injured by the act constituting the offense has a remedy by civil action, the offense may be compromised as provided in the next section, except when it is committed—

1. By or upon an officer of justice, while in the execution of the duties of his office;
2. Riotously;
3. With an intent to commit a felony.

History: En. Sec. 2540, Pen. C. 1895; re-en. Sec. 9527, Rev. C. 1907. Cal. Pen. C. Sec. 1377. Right of parties to compromise or settle bastardy proceedings, see note in L. R. A. 1918D, 291.

12221. Compromise by permission of the court bars another prosecution. If the party injured appears before the court in which the trial is to be had, at any time before trial, and acknowledges that he has received satisfaction for the injury, the court may, in its discretion, on payment of costs incurred, order all proceedings to be stayed by the prosecution, and the defendant to be discharged therefrom; but in such case the reasons for the order must be set forth therein, and entered on the minutes. The order is a bar to another prosecution for the same offense.

History: En. Sec. 2541, Pen. C. 1895; re-en. Sec. 9528, Rev. C. 1907. Cal. Pen. C. Sec. 1378.

12222. No public offense to be compromised except. No public offense can be compromised, nor can any proceeding or prosecution for the punishment thereof upon a compromise be stayed, except as provided in this chapter.

History: En. Sec. 2542, Pen. C. 1895; re-en. Sec. 9529, Rev. C. 1907. Cal. Pen. C. Sec. 1379.

CHAPTER 46.

DISMISSAL OF ACTIONS FOR WANT OF PROSECUTION OR OTHER REASONS..

- Section 12223. When Action May Be Dismissed.
 12224. Case May Be Continued.
 12225. Continuance and Discharge From Custody.
 12226. If Action Dismissed, Defendant to Be Discharged, etc.
 12227. Dismissed on Motion of Court or Application of County Attorney.
 12228. Nolle Prosequi Abolished.
 12229. Dismissal a Bar in Misdemeanor, But Not in Felony.

12223. When action may be dismissed. The court, unless good cause to the contrary is shown, must order the prosecution to be dismissed in the following cases:

1. Where a person has been held to answer for a public offense, if an information is not filed against him, within thirty days thereafter, or such time has not been extended by the court or judge.
2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six months after the finding of the indictment, or filing of the information.

History: Ap. p. Sec. 179, p. 244, Bank Stat.; re-en. Sec. 302, p. 236, Cod. Stat. 1887; en. Sec. 2550, Pen. C. 1895; re-en. Sec. 9530, Rev. C. 1907. Cal. Pen. Stat. 1871; re-en. Sec. 302, 3d Div. Rev. C. Sec. 1382. Stat. 1879; re-en. Sec. 303, 3d Div. Comp.

12224. Case may be continued. If, when application is made for the discharge of a defendant, under either subdivision of the next preceding section, the court is satisfied that there is material evidence on the part of the state, which cannot then be had; that reasonable exertions have been made to procure the same, and that there is just ground to believe that such evidence can be had at the succeeding term or session, or to such a reasonable time as may seem proper, the cause may be continued to the next term or session.

History: En. Sec. 2551, Pen. C. 1895; re-en. Sec. 9531, Rev. C. 1907.

12225. Continuance and discharge from custody. If the defendant is not brought to trial as provided in this chapter, and sufficient reason therefor is shown, the court may order the action to be continued from time to time, and in the meantime may discharge the defendant from custody on his own undertaking of bail for his appearance to answer the charge at the time to which the action is continued.

History: En. Sec. 2552, Pen. C. 1895; re-en. Sec. 9532, Rev. C. 1907. Cal. Pen. C. Sec. 1383.

12226. If action dismissed, defendant to be discharged, etc. If the court directs the action to be dismissed, the defendant must, if in custody, be discharged therefrom; or, if admitted to bail, his bail exonerated, or money deposited instead of bail must be refunded to him.

History: En. Sec. 2553, Pen. C. 1895; re-en. Sec. 9533, Rev. C. 1907. Cal. Pen. C. Sec. 1384.

12227. Dismissed on motion of court or application of county attorney. The court may, either of its own motion or upon the application of the county attorney, and in furtherance of justice, order an action, information, or indictment to be dismissed. The reasons of the dismissal must be set forth in an order entered upon the minutes.

History: En. Sec. 2554, Pen. C. 1895; re-en. Sec. 9534, Rev. C. 1907. Cal. Pen. C. Sec. 1385.

12228. Nolle prosequi abolished. The entry of a nolle prosequi is abolished, and neither the attorney-general nor the county attorney can discontinue or abandon a prosecution of a public offense, except as provided in the last section.

History: En. Sec. 2555, Pen. C. 1895; re-en. Sec. 9535, Rev. C. 1907. Cal. Pen. C. Sec. 1386.

12229. Dismissal a bar in misdemeanor, but not in felony. An order for the dismissal of an action, as provided in this chapter, is a bar to any other prosecution for the same offense if it is a misdemeanor, but it is not a bar if the offense is a felony.

History: En. Sec. 2556, Pen. C. 1895; re-en. Sec. 9536, Rev. C. 1907. Cal. Pen. C. Sec. 1387.

This section, providing that the dismissal

of a prosecution for felony is not a bar to a second prosecution, is not decisive of the question of former jeopardy. *State v. Gaimos*, 53 Mont. 118, 121, 162 Pac. 596.

CHAPTER 47.

PROCEEDINGS AGAINST CORPORATIONS.

Section 12230. Summons Upon Information Against Corporation.

12231. Form of Summons.

12232. When and How Served.

12233. Examination of the Charge.

12234. Certificate of Magistrate and Return.

12235. County Attorney to File Information.

12236. Appearance and Plea.

12237. Fine on Conviction, How Collected.

12238. Summons to Corporation.

12239. Service of Summons.

12230. Summons upon information against corporation. Upon a complaint against a corporation, the magistrate must issue a summons signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge, the time to be not less than ten days after the issuing of the summons.

History: En. Sec. 2570, Pen. C. 1895; Cited or applied as section 2570, Penal re-en. Sec. 9537, Rev. C. 1907. Cal. Pen. C. Code, in *State v. Mitchell*, 17 Mont. 67, 75, 42 Pac. 100. Sec. 1390.

12231. Form of summons. The summons must be substantially in the following form:

“County of (as case may be).

“The State of Montana to the (naming the corporation):

“You are hereby summoned to appear before me at (naming the place), on (specifying the day and hour), to answer a charge made against you upon the complaint of A B for (designating the offense generally).

“Dated at the city (or township) of, this day of, nineteen

“G H, Justice of the Peace (or as the case may be).”

History: En. Sec. 2571, Pen. C. 1895; re-en. Sec. 9538, Rev. C. 1907. Cal. Pen. C. Sec. 1391.

12232. When and how served. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president or other head of the corporation, or to the secretary, cashier, or managing agent thereof.

History: En. Sec. 2572, Pen. C. 1895; re-en. Sec. 9539, Rev. C. 1907. Cal. Pen. C. Sec. 1392.

12233. Examination of the charge. At the appointed time in the summons the magistrate must proceed to investigate the charge in the same manner as in the case of a natural person, so far as these proceedings are applicable.

History: En. Sec. 2573, Pen. C. 1895; re-en. Sec. 9540, Rev. C. 1907. Cal. Pen. C. Sec. 1393.

12234. Certificate of magistrate and return. After hearing the proofs, the magistrate must certify upon the complaint, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the complaint and certificate, as prescribed in section 11796.

History: En. Sec. 2574, Pen. C. 1895; re-en. Sec. 9541, Rev. C. 1907. Cal. Pen. C. Sec. 1394.

12235. County attorney to file information. If the magistrate returns a certificate that there is sufficient cause to believe the corporation guilty of the offense charged the county attorney may file an information thereof, as in case of a natural person held to answer, or he may file such information by leave of the court.

History: En. Sec. 2575, Pen. C. 1895; re-en. Sec. 9542, Rev. C. 1907. Cal. Pen. C. Sec. 1395.

12236. Appearance and plea. If an indictment is found, or information is filed, the corporation may appear by counsel to answer the same. If it does not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.

History: En. Sec. 2576, Pen. C. 1895; re-en. Sec. 9543, Rev. C. 1907. Cal. Pen. C. Sec. 1396.

12237. Fine on conviction, how collected. When a fine is imposed upon a corporation on conviction it may be collected by virtue of the order imposing it, by the sheriff of the county, out of its real and personal property, in the same manner as upon an execution in a civil action.

History: En. Sec. 2577, Pen. C. 1895; re-en. Sec. 9544, Rev. C. 1907. Cal. Pen. C. Sec. 1397.

12238. Summons to corporation. When an indictment is found or an information filed against a corporation, the clerk must issue a summons in its corporate name, commanding it to appear and answer the indictment or information, a copy of which summons must be served on an officer of said corporation, or upon its agent or attorney designated as the person upon whom service of summons in civil actions may be made, if there be any such in the county where the indictment is found or information is filed; and if there be no officer or designated agent or attorney in the county where the indictment or information is found or filed, then upon any managing agent, ticket agent, clerk, cashier, or secretary, freight agent, superintendent, or general business manager in the county; and if there be none of the above described persons in the county, then upon any of such persons in any county in the state. Such notice must be served at least five days before the time at which the said corporation is by summons required to appear.

History: En. Sec. 470, 3d Div. Comp. re-en. Sec. 9545, Rev. C. 1907. Cal. Pen. Stat. 1887; amd. Sec. 2578, Pen. C. 1895; C. Sec. 1390.

12239. Service of summons. When the sheriff or other officer returns the summons, certifying the service thereof, the corporation must, on and after the day appointed in such summons for its appearance, be considered in default, and the court must order the clerk to enter appearance for the corporation, and enter the plea of not guilty in the records of the court, and further proceedings may be had thereon as if the corporation had appeared and pleaded not guilty thereto; and if the corporation is convicted, the court must enter judgment for the amount of the fine and costs which may be awarded against it, in the same manner as on judgment in civil action.

History: Ap. p. Sec. 471, 3d Div. Comp. Cited or applied as section 2579, Penal Stat. 1887; en. Sec. 2579, Pen. C. 1895; Code, in *State v. Mitchell*, 17 Mont. 67, re-en. Sec. 9546, Rev. C. 1907. Cal. Pen. 75, 42 Pac. 100.
C. Secs. 1391 to 1392.

CHAPTER 48.

DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED.

- Section 12240. Peace Officer Must Hold Property Subject to Order of Magistrate.
12241. Order for Its Delivery to Owner.
12242. Magistrate Must Deliver It to Owner.
12243. Court in Which Trial Is Had May Order Its Delivery.
12244. Delivered to County Treasurer If Not Claimed in Six Months.
12245. Receipt for Money, etc., Taken From Person Arrested.
12246. Record of Property Alleged to Be Stolen.

12240. Peace officer must hold property subject to order of magistrate. When property, alleged to have been stolen or embezzled, comes into the custody of a peace officer, he must hold it subject to the order of the magistrate authorized by the next section to direct the disposal thereof.

History: En. Sec. 2610, Pen. C. 1895; re-en. Sec. 9549, Rev. C. 1907. Cal. Pen. C. Sec. 1407.

12241. Order for its delivery to owner. On satisfactory proof of the ownership of the property, the magistrate before whom the information is laid, or who examines the charge against the person accused of stealing or embezzling it, must order it to be delivered to the owner, on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the property.

History: En. Sec. 2611, Pen. C. 1895; re-en. Sec. 9550; Rev. C. 1907. Cal. Pen. C. Sec. 1408.

12242. Magistrate must deliver it to owner. If property stolen or embezzled comes into custody of the magistrate, it must be delivered to the owner on satisfactory proof of his title, and on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate.

History: En. Sec. 2612, Pen. C. 1895; re-en. Sec. 9551, Rev. C. 1907. Cal. Pen. C. Sec. 1409.

12243. Court in which trial is had may order its delivery. If the property stolen or embezzled has not been delivered to the owner, the court before which a trial is had for stealing or embezzling it may, on proof of his title, order it to be restored to the owner.

History: En. Sec. 2613, Pen. C. 1895; re-en. Sec. 9552, Rev. C. 1907. Cal. Pen. C. Sec. 1410.

12244. Delivered to county treasurer if not claimed in six months. If the property stolen or embezzled is not claimed by the owner before the expiration of six months from the conviction of a person for stealing or embezzling it, the magistrate or officer having it in custody must, on the payment of the necessary expenses incurred in its preservation, deliver it to the county treasurer, by whom it must be sold and the proceeds paid into the county treasury.

History: En. Sec. 2614, Pen. C. 1895; re-en. Sec. 9553, Rev. C. 1907. Cal. Pen. C. Sec. 1411.

12245. Receipt for money, etc., taken from person arrested. When money or other property is taken from a defendant, arrested upon a charge of a public offense, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money

or the kind of property taken; one of which receipts he must deliver to the defendant and the other of which he must forthwith file with the clerk of the court to which the complaint and statement are to be sent. When such property is taken by a police officer of any incorporated city or town, he must deliver one of the receipts to the defendant, and one, with the property, at once to the clerk or other person in charge of the police office in such city or town.

History: En. Sec. 2615, Pen. C. 1895; re-en. Sec. 9554, Rev. C. 1907. Cal. Pen. C. Sec. 1412.

12246. Record of property alleged to be stolen. The clerk in, or person having charge of, the police office in any incorporated city or town, must enter in a suitable book a description of every article of property alleged to be stolen or embezzled, and brought into the office or taken from the person of a prisoner, and must attach a number to each article, and make a corresponding entry thereof.

History: En. Sec. 2616, Pen. C. 1895; re-en. Sec. 9555, Rev. C. 1907. Cal. Pen. C. Sec. 1413.

CHAPTER 49.

PARDONS—COMMUTATIONS—REMISSIONS—RESPITES—BOARD OF PARDONS.

- Section 12247. Power of Governor to Grant Pardons—Board of Pardons, How Composed.
 12248. Meetings of the Board.
 12249. Notice of Pardon From the Governor, Board to Convene.
 12250. Order of the Board Fixing Time for Hearing—Form of Order.
 12251. Publication of Order.
 12252. Proof of Publication.
 12253. Record of Meeting, What to Contain.
 12254. Counsel May Be Heard.
 12255. Decision and Papers to Be Transmitted to Secretary of State.
 12256. Decision and Dissent to Be Recorded.
 12257. Board to Keep a Record, What to Contain.
 12258. Board May Prescribe Rules.
 12259. Governor to Report to Legislative Assembly.
 12260. Governor May Require Report From Judge.
 12261. When Publication Not Necessary.
 12262. Governor May Respite.
 12263. May Restore to Citizenship.
 12264. Parole of Prisoners in State Prison.
 12265. Paroled Prisoners Still in Legal Custody.
 12266. Applications for Parole.

12247. Power of governor to grant pardons—Board of pardons, how composed. The governor has the power to grant pardons, absolute or conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction, and judgment for offenses committed against the criminal law of this state; provided, that before granting pardons, remitting fines and forfeitures, or commuting punishments, the action of the governor concerning the same shall be approved by a board, or a majority thereof, composed of the secretary of state, attorney-general, and state auditor, who shall be known as the board of pardons.

History: En. Sec. 2630, Pen. C. 1895; re-en. Sec. 9556, Rev. C. 1907. Cal. Pen. C. Sec. 1417.

Note.—The board of pardons was created by act of March 9, 1891; Laws of 1891, pp. 191 to 195. See California Penal

Code, sections 1418 to 1423, for similar sections of this chapter.

In the exercise of the pardoning power, the governor is authorized to impose conditions without restriction, so long as they are not illegal, immoral, or impossible of performance. In re Sutton, 50 Mont. 88, 93, 145 Pac. 6, Ann. Cas. 1917A, 1223.

For text treatment of "Pardon," see Cal. Jur. and 20 R. C. L. 518.

Power of governor to pardon as confined to offenses against state, see notes in 19 Ann. Cas. 115; Ann. Cas. 1914A, 484.

Conditional pardons, see notes in 118 A. S. R. 108; 7 Ann. Cas. 92; 13 Ann. Cas. 1103; 14 L. R. A. 285.

12248. Meetings of the board. The board must hold regular meetings at its office at the seat of government, on the second Monday of each month, and such special meetings as the president, or any two members, may direct.

History: En. Sec. 3, p. 192, L. 1891; amd. Sec. 2631, Pen. C. 1895; re-en. Sec. 9557, Rev. C. 1907.

12249. Notice of pardon from the governor, board to convene. Upon the receipt of a notice in writing from the governor that he has granted a pardon, absolute or conditional, or remitted a fine or forfeiture, or commuted a punishment of any person after conviction and judgment for any offense committed against the criminal laws of this state, the board must immediately convene for the consideration thereof.

History: En. Sec. 4, p. 192, L. 1891; amd. Sec. 2632, Pen. C. 1895; re-en. Sec. 9558, Rev. C. 1907.

12250. Order of the board fixing time for hearing—Form of order. At such meeting the board must pass an order in substance as follows:

"Whereas, the governor has this day officially notified the board that he has granted a pardon (commutation of punishment or remitted a fine or forfeiture as the case may be), to one, a convict confined in the state prison (or to one, who has been found guilty of an offense committed against the laws of the state), who was convicted of the crime of committed at, in the county of, state of Montana, on the day of, 19...., and sentenced for a term of years.

"Therefore, be it ordered that the day of, 19...., be set apart for the consideration of said (pardon, remission of fine or forfeiture, or commutation of punishment as the case may be) so granted (or commuted) as aforesaid; and all persons having an interest therein desiring to be heard either for or against the granting of the pardon (or commutation, remission of the fine or forfeiture) are hereby notified to be present at, noon of said day, at the office of the board of pardons at the seat of government.

"Further ordered that a copy of this order be printed and published in the (here insert name of some newspaper of general circulation in the county where the crime was committed) a daily (or weekly) newspaper printed and published at in the county of, once each week for two weeks, beginning, 19...., and ending"

History: En. Sec. 5, p. 192, L. 1891; amd. Sec. 2633, Pen. C. 1895; re-en. Sec. 9559, Rev. C. 1907.

12251. Publication of order. The board must cause a copy of such order to be published in the newspaper therein designated, at least once

a week for two weeks prior to the hearing, and at the same time cause to be deposited in the postoffice at the seat of government, postpaid, a copy of said order and notice addressed to the district judge, county attorney and sheriff, respectively, of the county where the crime was committed, and in like manner mail a copy of the order to the petitioner and the convict.

History: En. Sec. 6, p. 193, L. 1891; amd. Sec. 2634, Pen. C. 1895; re-en. Sec. 9560, Rev. C. 1907.

12252. Proof of publication. Prior to the time set for hearing, proof of the publication of notice must be made by the publisher or managing agent.

History: En. Sec. 2635, Pen. C. 1895; re-en. Sec. 9561, Rev. C. 1907.

12253. Record of meeting, what to contain. At the hearing the board must cause to be kept a record showing—

1. The name of all persons appearing before the board on behalf of the person pardoned by the governor;
2. The name of all persons appearing before the board in opposition to the granting of the same;
3. The testimony of all persons giving evidence before the board;
4. That the affidavit and return from the printer of the publication of the notice and order of hearing was on file prior to the hearing.

History: En. Sec. 8, p. 194, L. 1891; re-en. Sec. 2636, Pen. C. 1895; re-en. Sec. 9562, Rev. C. 1907.

12254. Counsel may be heard. The petitioner, as well as parties opposed to granting the relief sought, may, in the discretion of the board, be heard by counsel.

History: En. Sec. 9, p. 194, L. 1891; re-en. Sec. 2637, Pen. C. 1895; re-en. Sec. 9563, Rev. C. 1907.

12255. Decision and papers to be transmitted to secretary of state. Within twenty days after the hearing of any case the board must file with the secretary of state its decision in writing, together with all papers used in each case, and transmit a copy of the decision to the governor.

History: En. Sec. 10, p. 194, L. 1891; re-en. Sec. 2638, Pen. C. 1895; re-en. Sec. 9564, Rev. C. 1907.

12256. Decision and dissent to be recorded. The decision must be entered at length in the record of proceedings of the board, and the dissent of any member thereto must be filed and entered at the same time.

History: En. Sec. 11, p. 194, L. 1891; amd. Sec. 2639, Pen. C. 1895; re-en. Sec. 9565, Rev. C. 1907.

12257. Board to keep a record, what to contain. The board must keep a record of its proceedings, in which must appear a copy of all notices of the granting of pardons, absolute or conditional, the remission of fines or forfeitures, the commutation of punishment transmitted by the governor, with a list of the signatures and recommendations in favor of each applicant; also stating therein—

1. The name of the convict;
2. The crime of which he was convicted;

3. The term of sentence and its date;
4. The date of commutation, pardon, or remission.

History: En. Sec. 12, p. 194, L. 1891; re-en. Sec. 2640, Pen. C. 1895; re-en. Sec. 9566, Rev. C. 1907.

12258. Board may prescribe rules. The board may prescribe such rules and regulations for the discharge of its duties, not inconsistent with the provisions of law, as it may deem necessary.

History: En. Sec. 2641, Pen. C. 1895; re-en. Sec. 9567, Rev. C. 1907.

12259. Governor to report to legislative assembly. The governor must communicate to the legislative assembly at each regular session, each case of remission of fine or forfeiture, reprieve, commutation, or pardon granted since the last previous report, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of remission, commutation, pardon or reprieve, with the reason for granting the same, and the objection, if any, of any of the members of the board made thereto.

History: En. Sec. 2642, Pen. C. 1895; re-en. Sec. 9568, Rev. C. 1907.

12260. Governor may require report from judge. When an application is made to the governor for a pardon, he may require the judge of the court before which the conviction was had, or the county attorney by whom the action was prosecuted, to furnish him, without delay, with a statement of the facts on the trial, and any other facts having reference to the propriety of granting or refusing the pardon.

History: En. Sec. 2643, Pen. C. 1895; re-en. Sec. 9569, Rev. C. 1907.

12261. When publication not necessary. No publication need be made as provided in section 12250, in the following cases:

1. When there is imminent danger of the death of the person convicted or imprisoned.
2. When the term of imprisonment of the applicant is within ten days of its expiration.

History: En. Sec. 2644, Pen. C. 1895; re-en. Sec. 9570, Rev. C. 1907.

12262. Governor may respite. The governor has the power to grant respites after conviction and judgment, for any offenses committed against the criminal laws of the state, for such time as he thinks proper.

History: En. Sec. 2645, Pen. C. 1895; re-en. Sec. 9571, Rev. C. 1907.

12263. May restore to citizenship. The governor has power to restore to citizenship any person convicted of any offense committed against the laws of the state, upon cause being shown, either after the expiration of sentence, or after pardon.

History: En. Sec. 2646, Pen. C. 1895; re-en. Sec. 9572, Rev. C. 1907.

12264. Parole of prisoners in state prison. The governor may recommend and the state board of prison commissioners may parole any inmate of the state prison, under such reasonable conditions and regulations as may be deemed expedient, and adopted by such state board; providing, however,

1. That no convict shall be paroled who has been previously convicted of a felony other than the one for which he is serving sentence, either in this state or elsewhere;

2. That no convict serving a time sentence shall be paroled until he shall have served at least one-half of his full term, not reckoning his good time; except that any convict serving a time sentence may be paroled after he shall have served, upon his term of sentence, twelve and one-half years;

3. No convict, serving a life sentence, shall be paroled until he shall have served twenty-five years, less the diminution which would have been allowed for good conduct had his sentence been for twenty-five years, and then only by unanimous consent, in writing, of the members of the board of pardons.

History: En. Sec. 1, Ch. 95, L. 1907; Sec. 9573, Rev. C. 1907.

Cited or applied as section 9573, Revised Codes, in *In re Collins*, 51 Mont. 215, 217, 152 Pac. 40.

The act of the governor, in granting a conditional release from the penitentiary of a person convicted of crime, is closely assimilated to a parole, which the governor has authority to grant under certain restrictions. In *re Sutton*, 50 Mont. 88, 94, 145 Pac. 6, Ann. Cas. 1917A, 1223.

Extradition of one who violates parole, see notes in 8 A. L. R. 903; 51 L. R. A. (N. S.) 672.

One on parole under conviction in the asylum state as subject to extradition, see note in L. R. A. 1918D, 680.

12265. Paroled prisoners still in legal custody. All such convicts, while on parole, shall remain in the legal custody and under the control of the state board of prison commissioners, and subject at any time to be returned to the state prison, either for breach of the conditions of his parole, or otherwise, and the written order of such board of prison commissioners, certified by the state prison contractors, or the warden or other officers in charge of the state prison, shall be sufficient warrant to any officer to retake and return to actual custody any such convict. Geographical limits wholly within the state may be fixed in each case of parole, and the same shall be enlarged or reduced according to the conduct of the prisoner; provided, that such paroled prisoners shall be required to report in writing to said board of prison commissioners at least once in every three months, stating their postoffice address, the nature and kind of work or employment in which they are engaged, or in which they have been engaged since the last report, and such other information and facts as may be required by the rules and regulations of said board.

History: En. Sec. 2, Ch. 95, L. 1907; Sec. 9574, Rev. C. 1907.

ditional pardon as constituting intervening period part of sentence, see notes in 10 Ann. Cas. 203; 16 L. R. A. (N. S.) 304.

Rearrest after release on parole or con-

12266. Applications for parole. In considering applications for parole, the state board of prison commissioners shall not entertain any petition, or receive any written communication, or hear any argument from any attorney or other person not connected with said state prison, in favor of the parole of the prisoner, but the state board may institute inquiries by correspondence, or otherwise, as to the previous history or character of such prisoner.

History: En. Sec. 3, Ch. 95, L. 1907; Sec. 9575, Rev. C. 1907.

Cited or applied as section 9575, Revised Codes, in *In re Sutton*, 50 Mont. 88, 94, 145 Pac. 6, Ann. Cas. 1917A, 1223.

CHAPTER 50.

PROCEEDINGS IN BASTARDY.

- Section** 12267. Complaint in Bastardy, What to Contain, How Entitled.
 12268. Clerk to Give Notice, How and to Whom.
 12269. Lien Upon Real Property, How Created and for What.
 12270. Judge May Order Attachment Without Bond, When.
 12271. County Attorney Required to Prosecute.
 12272. Issue on the Trial Shall be "Guilty" or "Not Guilty."
 12273. Judgment and Liability Where Accused Found Guilty.
 12274. Power of Court Over Judgments and Orders.

12267. Complaint in bastardy, what to contain, how entitled. When any woman residing in any county of the state is delivered of a bastard child, or is pregnant with a child which, if born alive, will be a bastard, complaint may be made in writing by any person to the district court of the county where she resides, stating that fact, and charging the proper person with being the father thereof. The proceeding must be entitled in the name of the state against the accused as defendant.

History: En. Sec. 2660, Pen. C. 1895; Statutes 1879; re-enacted as sections 150 re-en. Sec. 9576, Rev. C. 1907. to 155, Fifth Division Compiled Statutes 1887.

Note.—Earlier acts were sections 1 to 6, pp. 40 to 43, Laws of 1874; re-enacted as sections 93 to 98, Fifth Division Revised

For text treatment of "Bastardy," see Cal. Jur. and 3 R. C. L. 19.

12268. Clerk to give notice, how and to whom. Upon the filing of the complaint, duly verified, the clerk must cause notice to be given to the person so charged, as in an ordinary action.

History: En. Sec. 2661, Pen. C. 1895; re-en. Sec. 9577, Rev. C. 1907.

12269. Lien upon real property, how created and for what. From the time of the filing of such complaint, a lien is created upon the real property of the accused in the county where the action is pending, for the payment of any money and the performance of any order adjudged by the proper court; but no lien attaches until notice of the pendency of the action is filed in the county clerk's office of the county where the real property is situated.

History: En. Sec. 2662, Pen. C. 1895; re-en. Sec. 9578, Rev. C. 1907.

12270. Judge may order attachment without bond, when. The district judge may order an attachment to issue thereon without an undertaking, which order must specify the amount of property to be seized under the attachment, and may be revoked at any time by such judge or the court, on a showing made to either for a revocation of the same, and on such terms as such court or judge may deem proper in the premises.

History: En. Sec. 2663, Pen. C. 1895; re-en. Sec. 9579, Rev. C. 1907.

12271. County attorney required to prosecute. The county attorney, on being notified of the facts, must prosecute the matter in behalf of the complainant.

History: En. Sec. 2664, Pen. C. 1895; re-en. Sec. 9580, Rev. C. 1907.

12272. Issue on the trial shall be "guilty" or "not guilty." The issue on the trial is "guilty" or "not guilty," and must be tried as an ordinary action.

History: En. Sec. 2665, Pen. C. 1895; re-en. Sec. 9581, Rev. C. 1907.

12273. Judgment and liability where accused found guilty. If the accused is found guilty he must be charged with the maintenance of the child, in such sum, and in such manner as the court directs, with the costs of suit; and the clerk may issue execution for any sum ordered, to be paid immediately, and afterwards, from time to time, as may be required to compel compliance with the order of the court, and the defendant may be committed to the county jail until he complies with the order or judgment.

History: En. Sec. 2666, Pen. C. 1895; re-en. Sec. 9582, Rev. C. 1907.

12274. Power of court over judgments and orders. The court may at any time enlarge, diminish, or vacate any order or judgment rendered in the proceedings, on such notice to the defendant as the court or judge may prescribe.

History: En. Sec. 2667, Pen. C. 1895; re-en. Sec. 9583, Rev. C. 1907.

CHAPTER 51.

PROCEEDINGS AGAINST DELINQUENT CHILDREN AND JUVENILE DELINQUENT PERSONS.

- Section 12275.** Definition of Juvenile Delinquents.
12276. What Children Deemed Juvenile Delinquents—Evidence, When Used.
12277. Jurisdiction—Trial by Jury—Records—Reports.
12278. Proceedings by Petition.
12279. Filing Contents of Petitions—Citations—Return.
12280. Proceedings After Arrest Before Court or Magistrate—Examination.
12281. Place of Trial.
12282. Time and Place of Trial—Who Present.
12283. County Attorney to Prosecute.
12284. Provisions of Penal Code Applicable.
12285. Suspension of Sentence.
12286. Designation of Judge.
12287. Juvenile Improvement Committee.
12288. Probation Officers—Appointment, Salary and Duties—Procedure on Criminal Complaints Against Minors—Commitment.
12289. Form of Commitment to Industrial School.
12290. Written Statement of Release—Records of Probation Officer.
12291. Consideration of Religious Belief.
12292. Agreements With Certain Institutions for Support of Child.
12293. Penalty for Improper and Negligent Training of Children.
12294. Suspension of Sentence—Bond.
12295. Forfeiture of Bond—Execution of Sentence.
12296. Citation and Judgment Against Surety on Bond.
12297. County Commissioners Authorized to Carry Out Act—Detention Home—Superintendent and Matron.
12298. Prior Acts Excepted From Repeal.
12299. Construction and Purpose of Act.
12300. Other State Institutions Not Affected.
12301. Bond of Chief Probation Officer.

12275. Definition of juvenile delinquents. For the purpose of this act, the words "delinquent child" and the words "juvenile delinquent person" shall respectively mean and include any child under eighteen years of age, who violates any law of this state or any city ordinance of any city or town; or who is incorrigible; or who knowingly associates with a thief or with a vicious or immoral person; or who knowingly visits or lives in a house of prostitution, or in a house of ill-fame; or who is growing up in idleness or crime; or who knowingly patronizes or visits any place,

house, apartment or building where any gambling device is, or devices are, or shall be run or operated or used, or are kept for such purposes, or where any gambling is done or conducted; or who patronizes or habitually visits any saloon or saloons, dram shop, or dram shops, or who purchases at any saloon or dram shop any wines, beverages or intoxicating liquors for itself; or who patronizes or visits any poolroom which is run in connection with a saloon or place where any kind of drink is sold; or who patronizes or visits any room where pools are sold at any time; or visits or patronizes any bucket shop or shops; or wanders about the streets of any town or city in the night-time, without being on any lawful business or occupation; or who habitually wanders about or visits any railroad yard or tracks, or hooks or jumps on to any moving train or trains; or who enters any car or cars, engine or engines without any lawful authority; or who habitually uses vile, obscene, vulgar, profane or indecent language; or who is guilty of immoral conduct in any public place or about any schoolhouse or school grounds; or who shall become addicted to the use of spirituous or intoxicating liquors as a beverage, and not for medicinal purposes prescribed by a physician; or who shall have become addicted to the use of drugs other than prescribed by a physician, or who shall become addicted to the use of cigarettes.

History: En. Sec. 1, Ch. 122, L. 1911;
amd. Sec. 1, Ch. 202, L. 1919.

Note.—Earlier acts were chapters 126,
Laws of 1907, appearing as sections 9423
to 9439, Revised Codes 1907.

12276. What children deemed juvenile delinquents—Evidence, when used. Any child under eighteen years of age who shall commit any of the acts or do any of the things mentioned in the above section shall be deemed a delinquent child, or a juvenile delinquent person, and shall be proceeded against as such in the manner hereinafter provided. A deposition of any child under this act, or any evidence given in such case, shall not, in any civil or criminal or other cause or procedure whatever in any court, be lawful or proper evidence against such child for any purpose whatever, except in any subsequent case against the same child prosecuted under this act. The word "child" or "children" may mean one or more children, and the word "parent" or "parents" may mean one or more parents, when consistent with the intent of this act.

History: En. Sec. 2, Ch. 122, L. 1911; amd. Sec. 2, Ch. 202, L. 1919.

12277. Jurisdiction—Trial by jury—Records—Reports. The district courts of the several counties in this state shall have jurisdiction in all cases coming within the terms and provisions of this act. In trials under this act the child complained against, or any person interested in such child, shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge of his own motion may call a jury to try such case. A special record book or books shall be kept by the chief probation officer of the court, who shall be also the clerk in attendance at all hearings under this act, to be known as "the juvenile delinquent record," and the docket or calendar of the court upon which there shall appear the case or cases, under the provisions of this act, shall be known as "the juvenile docket." Between the first and thirteenth day of March, of each year, the chief probation officer shall prepare a written report of the cases had in this department, showing the

number and disposition of delinquent children brought before such court, together with such other and useful information regarding such cases, and the parentage of such children, as may be reasonably obtained at the hearings thereof; provided, that the name and identity of any such child or parent shall not be disclosed in such report.

History: En. Sec. 3, Ch. 122, L. 1911.

Where the mother of an alleged delinquent daughter was not accorded the opportunity to exercise, or waive, the right to a jury trial conferred by this section; and the record failed to disclose whether a jury trial was had, and whether the accused waived her right to such a trial or was apprised of it, the judgment committing her to a reformatory institution held void on habeas corpus. In re Satterthwaite, 52 Mont. 550, 160 Pac. 346.

tribunal for juvenile offenders, see notes in 5 Ann. Cas. 96; 7 Ann. Cas. 831; 14 Ann. Cas. 819; Ann. Cas. 1914A, 1227; Ann. Cas. 1915D, 701; 3 L. R. A. (N. S.) 564; 45 L. R. A. (N. S.) 908.

Establishment of, and procedure in, juvenile courts, see notes in Ann. Cas. 1916E, 1010, 1022, 1025, 1028; Ann. Cas. 1918D, 751, 754.

Jurisdiction of another court over child as affected by assumption of jurisdiction by juvenile court, see note in 11 A. L. R. 147.

Power of juvenile court to punish for contempt, see note in 8 A. L. R. 1548.

Constitutionality of statutes creating

12278. Proceedings by petition. All proceedings under this act shall be by petition duly sworn to and filed with the clerk of the district court. In any such petition filed under this act, the act or acts claimed to have been committed by the child proceeded against shall, in a general way, be stated therein as constituting a juvenile delinquent child, or person.

History: En. Sec. 4, Ch. 122, L. 1911.

The petition to have a juvenile delinquent committed under the provisions of this chapter, must, among other things, charge that the persons having the cus-

tody of the child are unfit, unwilling or unable to care for, educate, control or discipline it, or that their consent has been obtained that the delinquent might be taken from them. In re Satterthwaite, 52 Mont. 550, 160 Pac. 346.

12279. Filing contents of petitions—Citations—Return. Any reputable person being a resident of the county may file with the clerk of the court having jurisdiction of the matter, a petition in writing, setting forth that a certain child, naming it, within his county, not now or hereafter an inmate of a state institution incorporated under the laws of this state, is a delinquent person, as defined in section 12275; and that it is for the best interest of the child and this state that the child be taken from its parent, or parents, custodian or guardian, and placed under the charge of some suitable person to be appointed by the court, or committed to some institution or society that has for its object the care of delinquent children; and that the parent or parents, custodian or guardian of said child are unfit or improper guardians, or are unwilling or unable to care for, protect, train, educate, control, or discipline such child, or that the parent, parents, guardian, or custodian consent that such child be taken from them. The petition shall set forth either the name or that the name is unknown to the petitioner (a) of the person having the custody of such child; and (b) of each of the parents, or the surviving parent of a legitimate child, or of the mother of an illegitimate child, or (c) if it allege that both of said parents, or such mother is dead, then of the guardian, if any, of such child; (d) if it alleges that both parents are, or that such mother is dead, and that no such guardian of such child is known to petitioner, then of a near relative, or that none such is known to the petitioner. The petition

shall also state the residence of such parties, as far as the same are known to such petitioner. All persons named in such petition shall be notified of such proceedings. Upon the filing of any petition under this act, a citation shall be issued by the clerk of the court, ordering and directing all persons named in such petition and the person alleged to have the custody of such child to appear with the child at the time and place stated in the citation and show cause before said court; and shall also require all defendants to be and appear and answer the petition on the return day of the citation. This citation shall be made returnable at any time within twenty days after the date thereof and may be served by any peace officer or by any duly appointed probation officer, even though such officer be the petitioner. The return of such citation with endorsement of service in accordance herewith shall be sufficient proof thereof, but no incarceration of the child proceeded against thereunder shall be made or had, unless, in the opinion of the judge of the district court, or, in the absence of the judge from the county seat, then in the opinion of the justice of the peace or committing and examining magistrate, it shall be necessary to insure its attendance in court at such time as shall be required. In order to avoid such incarceration, if practical, it shall be the duty of the judge having jurisdiction to serve a notice of the proceedings upon the parent of the child, if living and known, or its legal guardian, or, if his or her whereabouts or residence is not known, or if neither parent nor guardian shall be in this state, then some relative living in the county, if any there be whose whereabouts is known, and such judge having jurisdiction shall accept the written or verbal promise of such person so notified, except in felony cases, or of any other person, to be responsible for the presence of such child at the hearing of such case, or at any other time to which the case may be continued or adjourned by the court. In case such child shall fail to appear at such time or times as the court may require, the person or persons responsible for its appearance as herein provided for, unless, in the opinion of the court, there shall be a reasonable cause for such failure of such child to appear as herein provided for, may be proceeded against as in cases for contempt of court, and punished accordingly; and where any such child shall have failed to appear, as required by the court or its officers, any warrant, capias, or alias, issued in such case, may be executed as in other cases; provided, however, that no child within the provisions of this act under eighteen years of age shall, under any circumstances, be incarcerated in any common jail or lock-up unless otherwise ordered by the court or judge, and any officer or person violating this provision of this act shall be guilty of a misdemeanor, and, on conviction, fined in a sum not to exceed one hundred dollars.

History: En. Sec. 5, Ch. 122, L. 1911; amd. Sec. 3, Ch. 202, L. 1919.

12280. Proceedings after arrest before court or magistrate—Examination. When any child under eighteen years of age is taken into custody, such child shall be taken directly before the district court, or, if the district court is not then in session in said county, it may be taken before a justice of the peace or police magistrate, who shall at once notify the chief probation officer of the county, who shall make investigation of such case as in other cases where complaint has been made or petition duly filed and after

investigation, as herein provided, by the said chief probation officer, then the justice of the peace or police magistrate shall act as a committing and examining magistrate only, and it shall be his duty to proceed with the hearing thereof, after granting to the child, or such person as may be representing it, reasonable opportunity to obtain counsel, if counsel be desired by the accused, and as soon as the defendant can procure its witnesses. In case the examining magistrate hold the child for trial in the district court, it shall be the duty of the magistrate to transfer the case to said district court, and the probation officer having the child in charge to take the child before the court, and the district court may proceed to hear and dispose of the case in the same manner as if said child had been brought before the court upon petition originally filed as hereinbefore provided; or, when necessary, when the delinquency charged would otherwise constitute a felony, may direct such child to be kept in proper custody until investigation, and an information may be filed as in other cases of felony or misdemeanor under the laws of the state; provided, that nothing herein shall be construed to confer jurisdiction upon any justice of the peace or police court to try any case against any child under eighteen years of age. In any case the court shall require notice to be given and investigation to be made as in other cases under this act, and may adjourn the hearing from time to time for that purpose.

History: En. Sec. 6, Ch. 122, L. 1911; amd. Sec. 4, Ch. 202, L. 1919.

12281. Place of trial. The place of trial of any person complained of or informed against for the violation of any of the provisions of this act shall be in the county in which any child shall have been a delinquent child, unless a change of venue of the person complained of or informed against for the violation of section 12280 is had, as provided by law for a change of venue in criminal cases.

History: En. Sec. 7, Ch. 122, L. 1911.

12282. Time and place of trial—Who present. All trials of such children as are affected by this act shall be held in chambers or in a room provided for such purposes. The judge of such court shall designate a certain time for the trial of such cases, and is hereby empowered to exclude from the room at such trials any and all persons that do not represent the interest of the child or those not necessary for the trial of the case. The probation officer shall be present at every trial in the interest of the child on trial. Agents of child-saving institutions and societies, and persons actively engaged in child-saving work shall be permitted to be present at the hearing of all children's cases.

History: En. Sec. 8, Ch. 122, L. 1911.

12283. County attorney to prosecute. It shall be the duty of the county attorney, on request of the judges exercising jurisdiction provided for in this act, to prosecute all persons charged with violating any of the provisions of this act.

History: En. Sec. 9, Ch. 122, L. 1911.

12284. Provisions of Penal Code applicable. The provisions of the Penal Code of this state relating to appeals, motions for new trials, allowance and signing of bills of exceptions shall apply to this act, and from the

judgment of the court or judge under this act, appeals may be prosecuted as in other criminal cases.

History: En. Sec. 10, Ch. 122, L. 1911; amd. Sec. 5, Ch. 202, L. 1919.

12285. Suspension of sentence. In every case of conviction under this act and where imprisonment is imposed as part of the punishment, the judge may suspend such sentence, upon such terms as he may impose.

History: En. Sec. 11, Ch. 122, L. 1911.

12286. Designation of judge. In districts where there are more than one judge, one of the judges shall be designated to act as the judge who shall hear all proceedings under this act; provided, that in districts where judges are required to travel from one county to another, either one of the judges may act.

History: En. Sec. 12, Ch. 122, L. 1911.

12287. Juvenile improvement committee. In every county in the state the judge having jurisdiction shall appoint a committee, willing to act without compensation, or composed of seven reputable citizens of both sexes, which committee shall be designated as a juvenile improvement committee; this committee shall be subject to the call of the judge to meet and confer with him on all matters pertaining to the juvenile department of the court, and shall act as a supervisory committee of such detention home.

History: En. Sec. 13, Ch. 122, L. 1911.

12288. Probation officers—Appointment, salary, and duties—Procedure on criminal complaints against minors—Commitment. In every judicial district of the state of Montana, the judge or judges thereof may appoint one discreet person of good moral character, who shall be known as the chief probation officer of such district, and who shall hold his office during the pleasure of the court, and who shall receive for his or her services such sum as shall be specified by the court upon appointment, not exceeding the sum of twenty-four hundred dollars per annum, to be paid, however, upon a per diem basis for the time actually and necessarily employed in performing the duties of the office; provided, that all appointments of probation officers paid out of the contingent fund of the county as herein provided shall be made on the basis of merit only, determined by a public competitive examination, held by three examiners, who shall be appointed by the court. The examiners shall conduct the examination of all applicants and shall certify to the court, for appointment to each position, the names of the three highest (unless the number of applicants is less than three) from which the appointment shall be made, as provided in this act. Said probation officer shall also be reimbursed for the actual and reasonable traveling and other expenses incurred by him in pursuance of his official duties. Such reimbursement shall be made once each month by the county or several counties constituting the judicial district for which such probation officer shall have been appointed. Each probation officer shall, not later than the tenth day of every calendar month, and before the allowance and payment thereof, file or cause to be filed with the proper board of county commis-

sioners of the county chargeable therewith, an itemized sworn statement and account of such expenses, including his claim for salary for the preceding month with the approval of the district judge or judges endorsed thereon. Each county of this state shall reimburse such probation officer only in respect to such expenses as have been incurred in connection with juvenile persons residing in that county. When a judicial district consists of one county, the salary of the probation officer is to be paid by that county, and when a judicial district is composed of more than one county, the salary of such officer shall be apportioned among and paid by each of said counties in proportion to the assessed valuation of such counties for the year then current.

That in every judicial district of the state of Montana the judge or judges thereof having jurisdiction, if in their opinion the circumstances require, may appoint other persons, but not to exceed two, to serve as probation officers, who shall receive not to exceed one hundred twenty-five dollars per month, and to serve at the will of the court, and be paid by the county treasurer, as above set forth, and provided that said judge or judges of the district court may appoint as probation officers such other discreet persons of good moral character as are willing to serve without compensation. It shall be the duty of the clerk of the district court, immediately upon the appointment of a probation officer, to notify the courts and magistrates of any county in which the said officer is appointed, giving them the names and postoffice addresses of such officers. The duties of said probation officer or officers shall be such as hereinafter prescribed.

Whenever a complaint is made or pending against a boy or girl under eighteen years of age for the commission of any offense not punishable by law with life imprisonment, or for which the penalty is death, before any court or magistrate, it shall be the duty of such court or magistrate at once and before any other proceedings are had in the cause, to give notice in writing of the pendency of said cause to the probation office of his county. Such probation officer shall immediately, or as soon thereafter as possible, proceed to inquire into and make a full examination and investigation of the facts and circumstances surrounding the commission of the alleged offense, the parentage and surroundings of said child, its exact age, habits, and school record, and everything that will throw light on its life and character, and may also inquire into the home condition, habits, and character of the parents or guardians, and shall make a full report thereon in writing to the judge of the district court having charge of such cases, before said cause is tried. If, upon consultation with the probation officer and the examination of such report, it shall appear to the judge of said court that the child is not guilty of the offense charged against it, or that the interest of the child shall be best subserved thereby, the court shall order that such child be not brought into court, and said cause shall be dismissed. Said chief probation officer shall attend all hearings under this act and represent the interests of the child, and shall take charge of any child before or after trial, as the judge may direct. Probations officers shall serve warrants and other process of the court, within or without the county, and in that respect they are hereby clothed with the powers and authority of sheriffs; they can make arrests without warrant upon view of the violation of any of the provisions of this act,

and detain the person so arrested pending the issuance of a warrant; and perform such other duties incident to their offices as the judge may direct; and all sheriffs, deputy sheriffs, constables, marshals, and police officers are required to render assistance to probation officers in the performance of their duties when requested to do so.

If upon the trial of any child the court shall find that such child is guilty of the offense charged, he may withhold judgment for a definite or indefinite period if it appear that the public and the interest of the child will be best subserved thereby, and may order that such child be returned to the care of his or her parents, guardian, or friends; or he may commit such child to the care of a volunteer probation officer, who shall exercise supervision over it until such time as it is discharged by the court from supervision upon the recommendation of such voluntary probation officer, and if the parents, parent, guardian, or custodian consent thereto, or if the court shall further find either that the parent, parents, guardian, or custodian are unfit or improper guardians, or are unable or unwilling to care for, protect, educate, or discipline such child, and shall further find that it is for the best interest of such child and for the people of this state that such child be taken from the custody of its parents, custodians, or guardian, the court may order such child to be placed in the family of some suitable person where such family home shall be recommended by the probation officer of the court after consultation with those representing the interests of the child, there to remain until he or she shall have attained the age of twenty-one years or for any less time, or the court may order such child to be placed in the home where the county's dependent children are kept; or, if it appears to be for the best interest of the child, and such child appears to be in need of institutional training, the court may order him or her to be committed to some state institution, or some institution of learning managed by a corporation or individual, and devoted to the care of such children, for a definite or indefinite period; said institution to be situated in the state of Montana, and to be inspected at least once a year and approved by the bureau of child and animal protection and to receive for its services a per diem of thirty-five cents for each day that such child shall be in the custody, such per diem to be paid by the county sending the child, upon itemized vouchers duly certified to by the court; or the court may impose a fine with costs, or the court may for good cause shown suspend judgment in any case for a definite or indefinite period; or, if the offense be a malicious trespass, the court may require the damage to be made good, or if the offense be petty larceny and the stolen property is not recovered, the court may require it to be paid by the delinquent child himself if it be shown that he or she is capable of earning the money or has money of his or her own, or its parents or guardian, at the discretion of the court; and in all the foregoing cases, where the parents or guardian are unfit to have the custody of said child, or unable to control said child, the court may deem the child to be the ward of the court, as far as its person is concerned; and in all cases where any child has been decreed to be the ward of the court, the authority of the court over its person shall continue until the court shall otherwise decree, and the court may adopt all rules and regulations that may be needed to carry out the provisions of this act. In every case in which the court shall

commit any child to the care and custody of any other institution as above provided, other than a state institution, and such child shall have a parent or guardian within the county, the court may make and enter an order requiring such parent or guardian to appear before said court upon a day and hour to be named by the court therein, and show cause, if any she or he have, why she or he should not pay for the support of such child, in whole or in part, while it is an inmate of such institution. A certified copy of said order shall be served upon such parent or guardian by the chief probation officer of the county not less than ten days prior to the day fixed therein for such appearance. Upon due service and return of said order, the court shall, upon the day fixed or upon such subsequent day as may be fixed by the court, hear evidence as to the financial ability of such parent or guardian, and in case the court shall find that such parent or guardian should pay for or contribute to the support and maintenance of such child, the court shall render judgment against such parent or guardian that that parent or guardian shall pay to the chief probation officer such sums as the court shall adjudge and at such times and in such amounts as shall be by the court found just. And such judgment shall be enforced as other judgments are enforced, and all moneys collected on such judgments shall be held by the chief probation officer and shall be remitted quarterly by him to the institution keeping such child or children and the amount so remitted shall be deducted from the quarterly bill of such institution.

Provided, that the chief probation officer shall make a verified report to the court at the close of each quarter, of the amount of money so collected on such judgments, which report the judge shall be caused to be filed with the county commissioners with the bill rendered by the institution keeping such child. If any child is wayward and unmanageable, the court may commit him or her to the industrial school, or to any other state penal or reformatory institution authorized by law to receive such boy or girl subject to such conditions as are already provided by law for the reception of such children in said schools or institutions. And in cases where a child shall be committed to a state or other institution as above provided, the report of the probation officer shall be attached to the commitment and the child shall be placed in charge of the probation officer, or some person designated by the court to be conveyed under his direction to the designated institution; provided, that a woman shall always be sent with the girls so committed, and the person taking such child to the designated institution shall be allowed and paid his or her actual expenses and no more, where he or she is a paid officer of such court, appointed by the court, and in all other cases the person taking such child to any institution shall be allowed and paid for his or her services, the same fees and expenses as are paid to sheriffs in like cases.

And provided, that the court may, when the health or condition of the child require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge or for the per diem of thirty-five cents a day.

Provided, that when a child contemplated by this act shall be sentenced to confinement in any institution to which adult convicts are sentenced, it

shall be unlawful to confine such child in any room, yard, or enclosure with such adult convicts or to allow them in any manner to come in contact with them, or in any way commingle with such adult convicts, or to bring such child into any yard or room in which adult convicts may be present.

Provided, that if any such boy or girl against whom a petition is filed is unable to give bond, and the court does not release him or her on his or her own recognizance, then such boy or girl shall be entitled to an immediate hearing and trial, according to law.

Providing that the commitment of any child to an institution or association or society shall be subject to the rules and laws that may be in force from time to time governing such institution, association, or society.

Provided, that when it shall be made to appear to the court that the home of the child or its parents, former guardian or custodian, is a suitable place for such child, and that such child could be permitted to remain or ordered to be returned to said home, consistent with the public good and the good of such child, the court may enter an order to that effect, returning such child to his home under probation, parole, or otherwise; it being the intention of this act that no child should be taken away or kept out of his home or away from his parents or guardian any longer than is reasonably necessary to preserve the welfare of the child and the interest of all this state; provided, however, that no such order shall be entered without giving ten days' notice to the person, institution, or association to whose care such child has been committed, unless such guardian, institution, or association to whose care such child has been committed consents to such order.

And provided, the court may from time to time cite into court the person, institution, association, or society to whose care any delinquent child has been awarded, and require him or it to make a full, true, and perfect report as to his or its doings in behalf of such child; and it shall be the duty of such person, institution, or association, within ten days after such citation, to make such report, either in writing, verified by affidavit, or verbally, under oath, in open court or otherwise, as the court shall direct; and upon the hearing of such report, with or without further evidence, the court may, if it sees fit, take such child from said person, institution, association, or society, and place it with another, or restore such child to the custody of its parents or former guardian or custodian.

History: En. Sec. 14, Ch. 122, L. 1911; Ch. 202, L. 1919; amd. Sec. 1, Ch. 251, L. amd. Sec. 1, Ch. 52, L. 1915; amd. Sec. 6, 1921.

12289. Form of commitment to industrial school. Whenever under any of the provisions of this chapter a district court or judge thereof shall order any delinquent child or juvenile delinquent person committed to the Montana state industrial school, the form of commitment shall be that prescribed by section 12503 of this code.

History: En. Sec. 1, Ch. 69, L. 1921.

12290. Written statement of release—Records of probation officer. Each person released upon probation, as aforesaid, shall be furnished by the court with a written statement of the terms and conditions of his

release. Each probation officer shall keep full records of all cases placed in his care by the court, and of any other duties performed by him under this act.

History: En. Sec. 15, Ch. 122, L. 1911.

12291. Consideration of religious belief. The court, in committing children, shall place them, as far as practicable, in the care and custody of some individual holding the same religious belief as the parents of said child, or with some association which is controlled by persons of like religious faith of the parents of said child.

History: En. Sec. 16, Ch. 122, L. 1911.

12292. Agreements with certain institutions for support of child. It shall be lawful for the parents, parent, or guardian or other person having the right to dispose of dependent or neglected child to enter into an agreement with any association or institution incorporated under any public or private law of this state, for the purpose of aiding, caring for, or placing in homes such children, and being approved as herein provided, for the surrender of such child to such association or institution, to be taken and cared for by such association or institution, or put into a family home. Such agreement may contain any and all proper stipulations to that end, and may authorize the institution or association, by its attorney or agent, to appear in any proceeding for the legal adoption of such child, and consent to its adoption, and the order of the court made upon such consent shall be binding upon the child and its parents or guardian or other person the same as if such person were personally present in court and consented thereto, whether made a party to the proceeding or not.

History: En. Sec. 17, Ch. 122, L. 1911.

12293. Penalty for improper and negligent training of children. Any parent or parents, legal guardian, or other person who shall encourage, wilfully cause or contribute to, or through negligence in the care, custody, guidance, education, maintenance, or direction of any child under eighteen years of age, cause or permit such child to violate any law of this state, or the ordinance or ordinances of any city of this state, or to be or become incorrigible, or to knowingly associate with thieves, vicious or immoral persons; or to grow up in idleness or crime, or to knowingly enter a house of prostitution; or to knowingly visit or patronize any place, house, or apartment building where any gambling device is or gambling devices are or shall be operated or run, or where any gambling is done or conducted, or to patronize or visit any saloon or saloons, or dram shop or dram shops, where intoxicating liquors are sold, or to patronize or visit any public poolroom or poolrooms, or bucket-shop, or to wander about the streets of any town or city in the night-time, without being on lawful business or occupation, or to habitually wander about or visit any railroad yards or tracks, or to jump or hook on to any moving train or to enter any car or engines, without lawful authority; to habitually use any vile, obscene, vulgar, profane, or indecent language, or to be guilty of immoral conduct in any public place, or about any schoolhouse or grounds, or keep or permit it in or about any saloon or place where spirituous liquors or intoxicating liquors are sold or handled, or in any gambling house or place

where gambling is practiced, or in a house of ill-fame or prostitution; or to become addicted to the use of spirituous and intoxicating liquors not for medicinal purposes prescribed by a physician; shall be guilty of a misdemeanor, and upon trial and conviction thereof shall be fined in a sum not less than ten dollars and not to exceed one thousand dollars, or imprisonment in the county jail for a period not exceeding nine months, or by both such fine and imprisonment.

History: En. Sec. 18, Ch. 122, L. 1911; amd. Sec. 7, Ch. 202, L. 1919.

12294. Suspension of sentence—Bond. The court may suspend any sentence for the violation of the provisions of the preceding section, or release any person sentenced under this act from custody upon condition that such person shall furnish a good and sufficient bond or undertaking to the state of Montana, in such penal sum, not exceeding three thousand dollars, as the court shall determine, upon conditions to be prescribed or imposed by the court, as seem most calculated to remove the cause of such delinquency of the child or children, and while such conditions are accepted and complied with by such persons, such sentence may, in the discretion of the court, remain suspended, and such persons shall be considered on probation in said court; and in case a bond is given as provided herein the conditions prescribed by the court may be made a part of the terms and conditions of such bond.

History: En. Sec. 19, Ch. 122, L. 1911.

12295. Forfeiture of bond—Execution of sentence. Upon the failure of any person to comply with the terms and conditions of such bond, or of the conditions imposed by the court, such bond or the term of probation may be declared forfeited and terminated by the court, and the original sentence executed as though it had never been suspended, and the terms of any jail sentence imposed in any such case shall commence from the date of the incarceration of any such person after the forfeiture of such bond or term of probation. There shall be deducted from any such period of incarceration any part of such sentence which may have already been served.

History: En. Sec. 20, Ch. 122, L. 1911.

12296. Citation and judgment against surety on bond. It shall not be necessary to bring a separate suit to recover the penalty of any such bond forfeited, but the court may cause a citation to issue to the surety or sureties thereon, requiring that he or she appear at a time named therein by the court, which time shall not be less than ten nor more than twenty days from the issuance thereof, and show cause, if any there be, why judgment should not be entered for the penalty of such bond and execution issue for the amount thereof against the property of the surety or sureties thereon, as in civil cases, and, upon failure to appear or failure to show any sufficient cause, the court shall enter judgment in behalf of the state of Montana, against the surety or sureties. Any moneys collected or paid upon any such execution or in any case upon said bond, shall be turned over to the county treasurer of the county in which such bond is given, to be applied to the care and maintenance of the child or children for whose dependency such conviction was had in such manner and upon such terms as the district court may direct.

Provided, that if it shall not be necessary in the opinion of the court to use such fund or any part thereof for the support and maintenance of such child, the same shall be paid into the county treasury and become a part of the funds of such county.

History: En. Sec. 21, Ch. 122, L. 1911.

12297. County commissioners authorized to carry out act—Detention home—Superintendent and matron. The county commissioners of all counties to which this act applies are hereby authorized, empowered, and required to provide the necessary funds and to make all needful appropriations to carry out the provisions of this act; and in counties with a population of over thirty thousand inhabitants, the county commissioners shall provide and in other counties may provide, by purchase, lease or otherwise, a place to be known as a detention home, within convenient distance of the courthouse, not used for the confinement of adult persons charged with criminal offenses, where delinquent, dependent, or neglected children may be detained, until final disposition, which place shall be maintained by the county as in other like cases. And in counties having a population in excess of thirty thousand the judge having jurisdiction may appoint a superintendent and matron subject to ratification of the juvenile improvement committee, who shall have charge of such home and of the delinquent dependent and neglected minors detained therein.

Such superintendent and matron shall be suitable and discreet persons, qualified as teachers of children. Such home shall be furnished in a comfortable manner, as nearly as may be as a family home. The compensation of such superintendent and matron shall be fixed by the county commissioners, such compensation and the maintaining of such home shall be paid out of the county treasury, upon a warrant of the county auditor, which shall be issued upon the itemized vouchers sworn to by the superintendent and certified by the judge.

When such detention home is provided for by the county commissioners, the said commissioners shall enter an order on their journal, transferring to the proper fund, from any other fund or funds of the county, in their discretion, such sums as may be necessary to purchase or lease said home and properly furnish and conduct the same and pay the compensation of the superintendent and matron. Said commissioners shall likewise, upon the appointment of probation officers, as provided in this act, transfer to the proper fund, from any other fund or funds of the county, in their discretion, such as may be necessary to pay such probation officers as provided for herein, such transfer to be made on the authority of this act alone.

At the next levying period, provision shall be made for the expenses of the court, as herein provided.

History: En. Sec. 22, Ch. 122, L. 1911; amd. Sec. 2, Ch. 251, L. 1921.

12298. Prior acts excepted from repeal. Nothing in this act shall be construed to repeal any portion of sections 8345, 8346, 8347, 8348, 8349 and 8350 of the Revised Code of Montana 1907, or any amendments thereof, nor shall anything in this act be construed to repeal any existing law providing for the support, maintenance, guidance, education, or

protection by parents of their minor children, and nothing in said laws shall prevent proceedings under this act in any proper case.

History: En. Sec. 23, Ch. 122, L. 1911.

Note.—See sections 11017 to 11022 and section 3102 of these codes for sections above referred to.

12299. Construction and purpose of act. This act shall be liberally construed, to the end that its purpose may be carried out, to-wit: That the care, custody, education, and discipline of the child shall approximate, as nearly as may be, that which should be given it by its parents, and that, as far as practicable, any delinquent child shall be treated, not as a criminal, but as misdirected and misguided, and needing aid, encouragement, help, and assistance.

And as far as practicable, in proper cases, that the parent or parents or guardians of such child may be compelled to perform their moral and legal duty in the interest of the child, and all fees and costs in all cases coming within the provisions of this act, together with such sums as shall be necessary for the incidental expenses of such court and its officers, and together with the costs of transportation of children to places to which they may be committed, shall be paid out of the county treasury of the county, upon itemized vouchers, certified to by the judge of the court.

History: En. Sec. 24, Ch. 122, L. 1911.

12300. Other state institutions not affected. Nothing in this act shall be construed to repeal any portion of the acts relating to the industrial schools or the act or acts relating to the bureau of child and animal protection.

History: En. Sec. 25, Ch. 122, L. 1911.

12301. Bond of chief probation officer. In counties of over thirty thousand population, the chief probation officer shall be required to furnish to the state of Montana a bond in the sum of five thousand dollars for the faithful performance of his duties; in counties of less than thirty thousand population, the chief probation officer shall furnish to the state of Montana a bond in the sum of two thousand dollars for the faithful performance of his duties.

History: En. Sec. 26, Ch. 122, L. 1911; amd. Sec. 3, Ch. 251, L. 1921.

CHAPTER 52.

JUSTICES AND POLICE COURT PROCEEDINGS—APPEALS.

Section	12302.	Proceedings Must Be by Complaint.
	12303.	When Warrant of Arrest Must Issue—Form.
	12304.	Minutes, How Kept.
	12305.	Plea, How Put In.
	12306.	Issue, How Tried.
	12307.	Change of Venue, When Granted.
	12308.	Papers and Proceedings to Be Transferred.
	12309.	True Name of Defendant.
	12310.	Same.
	12311.	New Complaint.
	12312.	Jury.
	12313.	Jury Trial, How Waived.
	12314.	Postponement.
	12315.	Verbal Notice to Witness.
	12316.	Defendant to Be Present.

- 12317. Challenges.
- 12318. Oath.
- 12319. Trial, How Conducted.
- 12320. Court Decides Questions of Law.
- 12321. Jury May Decide in Court or Retire.
- 12322. Verdict, How Delivered and Entered.
- 12323. Verdict When Several Defendants Are Tried.
- 12324. Jury, When to Be Discharged Without Verdict.
- 12325. If Discharged, Defendant May Be Tried Again.
- 12326. Proceedings on Plea of Guilty.
- 12327. Jury May Fix Punishment.
- 12328. Justice May Modify Same.
- 12329. Fine or Imprisonment.
- 12330. Defendant on Acquittal to Be Discharged—Prosecutor to Pay Costs, When.
- 12331. Prosecutor to Pay Costs.
- 12332. Judgment.
- 12333. How Defendant May Be Discharged.
- 12334. Defendant May Appeal.
- 12335. Notice of Appeal.
- 12336. Undertaking for Fine and Costs.
- 12337. Judgment Against Sureties.
- 12338. Undertaking on Judgment of Imprisonment.
- 12339. Trial Anew.
- 12340. Defendant Must Be Discharged on Acquittal.
- 12341. Judgment of Imprisonment, How Executed.
- 12342. Defendant May Be Admitted to Bail at Any Time.
- 12343. Subpoena.
- 12344. Entitling Affidavits.
- 12345. Police Courts Defined.
- 12346. Officer Must Pay Fines to Justice.
- 12347. Justices Must Pay Fines to Treasurer.

12302. Proceedings must be by complaint. All proceedings and actions before a justice's or police court, for a public offense of which such courts have jurisdiction, must be commenced by complaint under oath, setting forth the offense charged, with such particulars of time, place, person, and property, as to enable the defendant to understand distinctly the character of the offense complained of, and to answer the complaint. A city or town ordinance may be referred to by its title and section, and the number thereof.

Related sections: 11615, 11619, 11729.

History: En. Sec. 2680, Pen. C. 1895; re-en. Sec. 9584, Rev. C. 1907. Cal. Pen. C. Sec. 1426.

Note.—The earlier acts relating to proceedings in justice court differed materially from the law since 1895. They are the following: Sections 307 to 341, pp. 263 to 367, Bannack Statutes; superseded by sections 468 to 526, pp. 262 to 267, Codified Statutes 1871. The latter acts appeared as sections 468 to 526, Third Division Revised Statutes 1879; and were re-enacted as sections 474 to 530, Third Division Compiled Statutes 1887.

In a criminal proceeding, it is sufficient to plead a city ordinance by reference to its title, section and subdivision of sec-

tion. *City of Philipsburg v. Weinstein*, 21 Mont. 146, 53 Pac. 272.

For an instance of a complaint charging a sale of liquor, in violation of the local option law, and meeting all the requirements of the statute, see *State v. O'Brien*, 35 Mont. 482, 494, 90 Pac. 514, 10 Ann. Cas. 1006.

Cited or applied as section 2680, Penal Code, in *In re Graye*, 36 Mont. 394, 400, 93 Pac. 66.

For text treatment of "Justices of the Peace," see Cal. Jur. and 16 R. C. L. 327.

Power of justice of peace to punish for contempt, see notes in 9 Ann. Cas. 316; 8 A. L. R. 1548, 1566, 1571, 1572.

Power of police courts to punish for contempt, see notes in 8 A. L. R. 1564, 1572.

12303. When warrant of arrest must issue—Form. If the justice of the peace, or police judge, is satisfied therefrom that the offense com-

plained of has been committed, he must issue a warrant of arrest which must be substantially in the following form:

"County of

"The State of Montana to any sheriff, constable, marshal or policeman in this state:

"Complaint upon oath having been this day made before me, (justice of the peace or police judge, as the case may be) by C D, that the offense of (designating it generally) has been committed, and accusing E F thereof; you are hereby commanded forthwith to arrest the above named E F and bring him before me forthwith, at (naming the place).

"Witness my hand and seal at, this day of,
A. D. A. B., Justice of the Peace or Judge."

History: En. Sec. 2681, Pen. C. 1895;
re-en. Sec. 9585, Rev. C. 1907. Cal. Pen.
C. Sec. 1427.

any citizen that an offense has been committed, to issue a warrant of arrest and to have the offender brought before him for trial or examination, as the case may be. State v. O'Brien, 35 Mont. 482, 494, 90 Pac. 514, 10 Ann. Cas. 1006.

It is the duty of a justice of the peace, when he is satisfied upon the complaint of

12304. Minutes, how kept. A docket must be kept by the justice of the peace, or police judge, in which must be entered each action, and the proceedings of the court therein.

History: En. Sec. 2682, Pen. C. 1895;
re-en. Sec. 9586, Rev. C. 1907. Cal. Pen.
C. Sec. 1428.

gether with a copy of the docket minutes, constitute the record on appeal, in a criminal cause, from a justice of the peace to the district court. In re Graye, 36 Mont. 394, 397, 93 Pac. 66.

In the absence of specific statutory provision on the subject, the original files, to-

12305. Plea, how put in. The defendant may make the same plea as upon indictment or information. His plea must be oral, and entered in the minutes. If the defendant plead guilty, the court may, before entering such plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed; and if it appear to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail, to answer any information which may be filed by the county attorney.

History: En. Sec. 2683, Pen. C. 1895;
re-en. Sec. 9587, Rev. C. 1907. Cal. Pen.
C. Sec. 1429.

Cited or applied as section 2683, Penal Code, in State v. O'Brien, 35 Mont. 482, 494, 90 Pac. 514, 10 Ann. Cas. 1006.

12306. Issue, how tried. Upon a plea other than guilty, if the parties waive a trial by jury, and an adjournment or change of place of trial is not granted, the court must proceed to try the case.

History: En. Sec. 2684, Pen. C. 1895;
re-en. Sec. 9588, Rev. C. 1907. Cal. Pen. C.
Sec. 1430.

Power of justice of peace to reopen criminal case decided by him, see note in 4 Ann. Cas. 767.

12307. Change of venue, when granted. If the action or proceeding is in a justice's court, a change of the place of trial may be had at any time before the trial commences—

1. When it appears from the affidavit of the defendant that he has good reason to believe, and does believe, that he cannot have a fair and impartial trial before the justice about to try the case, by reason of the prejudice or bias of such justice, the cause must be transferred to another justice of the same or adjoining township;

2. When it appears from affidavit that the defendant can not have a fair and impartial trial, by reason of the prejudice of the citizens of the township, the cause must be transferred to a justice of the township where the same prejudice does not exist. In each case the defendant must state the facts upon which his belief is founded.

History: En. Sec. 2685, Pen. C. 1895; re-en. Sec. 9589, Rev. C. 1907. Cal. Pen. C. Sec. 1431.

It seems that a police judge may grant a change of the place of trial of a criminal cause pending before him upon a motion, supported by a proper showing, either for bias or prejudice of such judge, or prejudice in the citizens of the township.

In re Graye, 36 Mont. 394, 397, 93 Pac. 66.

A change of venue cannot be had from a justice of the peace court of one county to a justice of the peace court of another county, and, by creating but a single township in a given county, the commissioners of that county could nullify the provisions of this section. State ex rel. Gillett v. Cronin, 41 Mont. 293, 295, 109 Pac. 144.

12308. Papers and proceedings to be transferred. When a change of the place of trial is ordered, the justice must transmit to the justice before whom the trial is to be had all the original papers in the cause, with a certified copy of the minutes of his proceedings; and upon receipt thereof, the justice to whom they are delivered must proceed with the trial in the same manner as if the proceeding or action had been originally commenced in his court.

History: En. Sec. 2686, Pen. C. 1895; re-en. Sec. 9590, Rev. C. 1907. Cal. Pen. C. Sec. 1432.

12309. True name of defendant. The defendant, if he declare that the name given him in the complaint is not his true name, must make known what his name is, and if he fail to do so, he shall not afterward be allowed to raise the objection that he was not complained of under his true name.

History: En. Sec. 476, p. 262, Cod. Stat. 1887; re-en. Sec. 2687, Pen. C. 1895; re-en. 1871; re-en. Sec. 476, 3d Div. Rev. Stat. Sec. 9591, Rev. C. 1907. 1879; re-en. Sec. 482, 3d Div. Comp. Stat.

12310. Same. If he gives his true name, the court must make a minute of the same, and thereafter the case must proceed in that name.

History: En. Sec. 477, p. 262, Cod. Stat. 1887; re-en. Sec. 2688, Pen. C. 1895; re-en. 1871; re-en. Sec. 477, 3d Div. Rev. Stat. Sec. 9592, Rev. C. 1907. 1879; re-en. Sec. 483, 3d Div. Comp. Stat.

12311. New complaint. If a demurrer to any complaint is sustained for any other cause than that of a want of jurisdiction in the court to hear the offense charged, a new complaint may be made against the defendant.

History: En. Sec. 479, p. 262, Cod. Stat. 1887; re-en. Sec. 2689, Pen. C. 1895; re-en. 1871; re-en. Sec. 479, 3d Div. Rev. Stat. Sec. 9593, Rev. C. 1907. 1879; re-en. Sec. 485, 3d Div. Comp. Stat.

12312. Jury. The defendant is entitled to a jury of six qualified persons, but may consent to a less number.

History: En. Sec. 2690, Pen. C. 1895; re-en. Sec. 9594, Rev. C. 1907.

12313. Jury trial, how waived. A trial by jury may be waived by the consent of both parties expressed in open court and entered in the docket. The formation of the jury is provided for in sections 8913 to 8915 and 8925 to 8926 of the Code of Civil Procedure.

History: En. Sec. 2691, Pen. C. 1895; re-en. Sec. 9595, Rev. C. 1907. Cal. Pen. C. Sec. 1435.

12314. Postponement. Before the commencement of a trial in any of the courts mentioned in this chapter, either party may, upon good cause shown, have a reasonable postponement thereof.

History: En. Sec. 2692, Pen. C. 1895; re-en. Sec. 9596, Rev. C. 1907. Cal. Pen. C. Sec. 1433.

12315. Verbal notice to witness. When a trial under the provisions of this chapter is continued by the court, it is not necessary for the court to summon any witnesses who may be present at the continuance, but the court must verbally notify such witnesses, as either party may require, to attend before it, to testify in the cause, on the day set for trial, which verbal notice is as valid as a subpoena.

History: En. Sec. 2693, Pen. C. 1895; re-en. Sec. 9597, Rev. C. 1907.

12316. Defendant to be present. The defendant must be personally present before the trial can proceed.

Related section: 11931.

History: En. Sec. 472, p. 262, Cod. Stat. 1887; re-en. Sec. 2694, Pen. C. 1895; re-en. Sec. 9598, Rev. C. 1907. Cal. Pen. C. Sec. 1434.

1871; re-en. Sec. 472, 3d Div. Rev. Stat. 1879; re-en. Sec. 478, 3d Div. Comp. Stat.

12317. Challenges. The same challenges may be taken by either party to the panel of jurors, or to any individual juror, as on the trial of an indictment or information, for a misdemeanor; but the challenge must in all cases be tried by the court.

Related section: 11955.

re-en. Sec. 9599, Rev. C. 1907. Cal. Pen.

History: En. Sec. 2695, Pen. C. 1895; C. Sec. 1436.

12318. Oath. The court must administer to the jury the following oath:

"You do swear that you will well and truly try the issue between the state of Montana and A B, the defendant, and a true verdict render according to the evidence."

History: En. Sec. 2696, Pen. C. 1895; re-en. Sec. 9600, Rev. C. 1907. Cal. Pen. C. Sec. 1437.

12319. Trial, how conducted. After the jury are sworn, they must sit together and hear the proofs and allegations of the parties, which must be delivered in public, and in the presence of the defendant. The jury must not separate during the trial except by consent of the parties.

History: En. Sec. 2697, Pen. C. 1895; re-en. Sec. 9601, Rev. C. 1907. Cal. Pen. C. Sec. 1438.

12320. Court decides questions of law. The court must decide all questions of law which may arise in the course of the trial, but can give no charge with respect to matters of fact.

History: En. Sec. 2698, Pen. C. 1895; re-en. Sec. 9602, Rev. C. 1907. Cal. Pen. C. Sec. 1439.

has been enacted in many statutes, and has been deemed so vital to the rights and liberties of the people that it has been engrafted upon the constitutions of states. State v. Sullivan, 9 Mont. 174, 177, 22 Pac. 1088.

This section is the statement in legislative form of an ancient legal maxim which

12321. Jury may decide in court or retire. After hearing the proofs and allegations, the jury may decide in court, or may retire for consideration. If they do not immediately agree, an officer must be sworn to the

following effect: "You do swear that you will keep this jury together in some quiet and convenient place; that you will not permit any person to speak to them, nor to speak to them yourself, unless by order of the court, or to ask them whether they have agreed upon a verdict; and that you will return them into court when they have so agreed, or when ordered by the court."

History: En. Sec. 2699, Pen. C. 1895; re-en. Sec. 9603, Rev. C. 1907. Cal. Pen. C. Sec. 1440.

12322. Verdict, how delivered and entered. The verdict of the jury must in all cases be general. When the jury have agreed on their verdict, they must deliver it publicly to the court, who must enter, or cause it to be entered, in the minutes.

Related section: 12019.

re-en. Sec. 9604, Rev. C. 1907. Cal. Pen. C.

History: En. Sec. 2700, Pen. C. 1895; Sec. 1441.

12323. Verdict when several defendants are tried. When several defendants are tried together, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the rest may be tried by another jury.

History: En. Sec. 490, p. 263, Cod. Stat. 1887; re-en. Sec. 2701, Pen. C. 1895; re-en. 1871; re-en. Sec. 490, 3d Div. Rev. Stat. Sec. 9605, Rev. C. 1907. Cal. Pen. C. Sec. 1879; re-en. Sec. 496, 3d Div. Comp. Stat. 1442.

12324. Jury, when to be discharged without verdict. The jury cannot be discharged after the cause is submitted to them, until they have agreed upon and rendered their verdict, unless for good cause the court sooner discharges them.

History: En. Sec. 2702, Pen. C. 1895; re-en. Sec. 9606, Rev. C. 1907. Cal. Pen. C. Sec. 1443.

12325. If discharged, defendant may be tried again. If the jury is discharged, as provided in the last section, the court may proceed again to the trial, in the same manner as upon the first trial, and so on, until a verdict is rendered.

History: En. Sec. 2703, Pen. C. 1895; re-en. Sec. 9607, Rev. C. 1907. Cal. Pen. C. Sec. 1444.

12326. Proceedings on plea of guilty. When the defendant pleads guilty, or is convicted, either by the court or by a jury, the court must render judgment thereon of fine and imprisonment, or both, as the case may be. The judgment must be executed by the sheriff, constable, marshal or policeman of the jurisdiction in which the conviction was had.

History: En. Sec. 2704, Pen. C. 1895; re-en. Sec. 9608, Rev. C. 1907. Cal. Pen. C. Sec. 1445.

12327. Jury may fix punishment. When the punishment provided for any offense is in the alternative, the jury may fix the same; any neglect on their part to do so will not prevent the court from fixing it.

History: En. Sec. 492, p. 263, Cod. Stat. 1887; re-en. Sec. 2705, Pen. C. 1895; re-en. 1871; re-en. Sec. 492, 3d Div. Rev. Stat. Sec. 9609, Rev. C. 1907. 1879; re-en. Sec. 498, 3d Div. Comp. Stat.

12328. Justice may modify same. If the justice deem any penalty fixed by the jury erroneous, he has the right to modify the same.

History: En. Sec. 493, p. 263, Cod. Stat. 1887; re-en. Sec. 2706, Pen. C. 1895; re-en. 1871; re-en. Sec. 493, 3d Div. Rev. Stat. Sec. 9610, Rev. C. 1907.
1879; re-en. Sec. 499, 3d Div. Comp. Stat.

12329. Fine or imprisonment. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine be satisfied, in the proportion of one day's imprisonment for every two dollars of the fine.

History: En. Sec. 2707, Pen. C. 1895; re-en. Sec. 9611, Rev. C. 1907. Cal. Pen. C. Sec. 1446.

Where a defendant has been imprisoned under this section for the full period prescribed in a judgment rendered in a justice court, such imprisonment operates ipso facto to satisfy and discharge the judg-

ment, and the justice is without authority to retain money of the prisoner collected by executor under the provisions of sections 12071 and 12072. *Petelin v. Kennedy*, 29 Mont. 466, 75 Pac. 82.

Cited or applied as section 2707, Penal Code, in *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 120, 82 Pac. 663.

12330. Defendant on acquittal to be discharged—Prosecutor to pay costs, when. When the defendant is acquitted, either by the court or by the jury, he must be immediately discharged; and if the court certify in the minutes that the prosecution was malicious or without probable cause, it may order the prosecutor to pay the costs of the action, or to give satisfactory security by a written undertaking, with one or more sureties, to pay the same within thirty days after the trial.

History: En. Sec. 2708, Pen. C. 1895; re-en. Sec. 9612, Rev. C. 1907. Cal. Pen. C. Sec. 1447.

Cited or applied as section 9612, Revised Codes, in *Griggs v. Glass*, 58 Mont. 476, 481, 193 Pac. 564.

12331. Prosecutor to pay costs. If the prosecutor does not pay the costs, or give security therefor, the court may enter judgment against him for the amount thereof, which may be enforced in all respects in the same manner as a judgment rendered in a civil action. An appeal may be taken as in other cases in a civil action.

Related section: 9810.

History: En. Sec. 2709, Pen. C. 1895; re-en. Sec. 9613, Rev. C. 1907. Cal. Pen. C. Sec. 1448.

Cited or applied as section 9613, Revised Codes, in *Griggs v. Glass*, 58 Mont. 476, 481, 193 Pac. 564.

12332. Judgment. After a plea or verdict of guilty, or after a verdict against the defendant, on a plea of a former conviction or acquittal, the court must appoint a time for rendering judgment, which must not be more than two days nor less than six hours after the verdict is rendered, unless the defendant waive the postponement. If postponed, the court may hold the defendant to bail to appear for judgment. A judgment must be entered in the minutes of the court as soon as rendered.

History: En. Sec. 2710, Pen. C. 1895; re-en. Sec. 9614, Rev. C. 1907. Cal. Pen. C. Sec. 1449.

Where a person accused in a justice's court of a misdemeanor is convicted, and the justice immediately proceeds, upon the return of the verdict, to pronounce sen-

tence, without any objection from the defendant, his silence is a waiver of his right to a postponement of judgment. *Hosoda v. Neville*, 45 Mont. 310, 312, 123 Pac. 20.

Cited or applied as section 2710, Penal Code, in *State v. O'Brien*, 35 Mont. 482, 491, 90 Pac. 514, 10 Ann. Cas. 1006.

12333. How defendant may be discharged. A defendant committed under the provisions of this chapter may be discharged in the same manner as if he had been committed by the district court.

History: En. Sec. 503, p. 264, Cod. Stat. 1887; re-en. Sec. 2711, Pen. C. 1895; re-en. 1871; re-en. Sec. 503, 3d Div. Rev. Stat. Sec. 9615, Rev. C. 1907.
1879; re-en. Sec. 509, 3d Div. Comp. Stat.

12334. Defendant may appeal. The defendant may appeal to the district court at any time within ten days after judgment is rendered.

History: En. Sec. 504, p. 264, Cod. Stat. 1887; re-en. Sec. 2712, Pen. C. 1895; re-en. 1871; re-en. Sec. 504, 3d Div. Rev. Stat. Sec. 9616, Rev. C. 1907.
1879; re-en. Sec. 510, 3d Div. Comp. Stat.

12335. Notice of appeal. An appeal is taken by the defendant by giving notice in open court of his intention so to do, at the time of the rendition of the verdict or judgment, or by filing with the justice within five days thereafter, a written notice of appeal.

History: En. Sec. 2713, Pen. C. 1895; District Court, 33 Mont. 119, 122, 82 Pac. 663.
re-en. Sec. 9617, Rev. C. 1907.

An undertaking on appeal, being purely a statutory regulation, may not be exacted unless the statute specifically makes such requirement. *State ex rel. Hodgdon v.*

An appeal may be taken by oral notice at the time of the rendition of the verdict or judgment. In *re Graye*, 36 Mont. 394, 398, 93 Pac. 66.

12336. Undertaking for fine and costs. When the appeal is from a judgment for fine, the defendant must, within ten days after the rendition of the verdict or judgment, file with the justice an undertaking, with two sufficient sureties, in double the amount of the judgment for fine and costs, to the effect that defendant will pay the same or such part thereof as the district court may direct, or if the appeal is dismissed, that judgment may be entered against said sureties, in the district court therefor. Such undertaking must be approved by the justice and the sureties must justify as provided in this code.

History: En. Sec. 2714, Pen. C. 1895; re-en. Sec. 9618, Rev. C. 1907.

A judgment rendered by a justice of the peace, in a case of misdemeanor, imposing a fine, with imprisonment in the county

jail until the fine be paid, is not a judgment for fine only, within the meaning of this section. *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 120, 82 Pac. 663.

12337. Judgment against sureties. If on appeal judgment is rendered against the defendant, or if the appeal is dismissed, the court must also render a judgment against the sureties for the amount of fine and costs.

History: En. Sec. 2715, Pen. C. 1895; re-en. Sec. 9619, Rev. C. 1907.

Cited or applied as section 2715, Penal Code, in *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 120, 82 Pac. 663.

12338. Undertaking on judgment of imprisonment. When the appeal is from a judgment of imprisonment the defendant may be admitted to bail pending the appeal by giving an undertaking as provided in subdivision 2 of section 12138, in a sum, to be approved by the court, not exceeding seven hundred dollars, to the effect that defendant will appear and surrender himself in execution of any judgment in said district court that may be rendered therein against him, and obey all orders of the

district court, and pay all costs that may be awarded against defendant, or if said appeal be dismissed.

History: En. Sec. 2716, Pen. C. 1895; re-en. Sec. 9620, Rev. C. 1907.

Cited or applied as section 2716, Penal Code, in *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 121, 82 Pac. 663.

12339. Trial anew. All cases on appeal from justices' or police courts must be tried anew in the district court.

History: En. Sec. 510, p. 265, Cod. Stat. 1871; re-en. Sec. 510, 3d Div. Rev. Stat. 1879; re-en. Sec. 516, 3d Div. Comp. Stat. 1887; amd. Sec. 2717, Pen. C. 1895; re-en. Sec. 9621, Rev. C. 1907.

Since the district court does not, on appeal from a justice's court, sit as a court of review, but tries the case de novo, any irregularities attending the rendition of the judgment in a case in which the justice had jurisdiction of the offense charged and of the defendant are waived by taking the appeal. *State v. O'Brien*, 35 Mont. 482, 491, 90 Pac. 514, 10 Ann. Cas. 1006.

The original files, together with a copy of the docket minutes, may be regarded as constituting the record on appeal from a justice of the peace to the district court. In *re Graye*, 36 Mont. 394, 397, 93 Pac. 66.

A party cannot, under the guise of an application for a trial de novo, insist that

irregularities, to which he made no objection, shall be taken note of, or that the judgment, which is abrogated by the appeal, be reversed on account of them. It is therefore immaterial, on the trial of the case appealed, whether the justice lost jurisdiction by conducting the trial in part on a legal holiday, or failed to comply with the statute in giving judgment or pronouncing sentence. In *re Graye*, 36 Mont. 394, 401, 93 Pac. 66.

The result of an appeal from a judgment of a justice of the peace, in a prosecution for misdemeanor, is to abrogate that judgment and to hold defendant under the original warrant of arrest for trial de novo in the district court, and the defendant cannot complain, on habeas corpus, of any irregularity committed by the justice in rendering judgment. *Hosoda v. Neville*, 45 Mont. 310, 313, 123 Pac. 20.

12340. Defendant must be discharged on acquittal. If judgment of acquittal is given, or judgment imposing a fine only, without imprisonment for nonpayment, and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given.

History: En. Sec. 2718, Pen. C. 1895; re-en. Sec. 9622, Rev. C. 1907. Cal. Pen. C. Sec. 1454.

It is apparent from this section and the next section that the legislature recognized

a distinction between a judgment for fine, and one for fine with imprisonment until the fine be paid. *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 120, 82 Pac. 663.

12341. Judgment of imprisonment, how executed. When a judgment of imprisonment is entered, a certified copy thereof must be delivered to the sheriff or other officer, which is a sufficient warrant for its execution. When a judgment is entered imposing a fine, or ordering the defendant to be imprisoned until the fine is paid, he must be held in custody during the time specified in the judgment, unless the fine is sooner paid.

History: En. Sec. 2719, Pen. C. 1895; re-en. Sec. 9623, Rev. C. 1907. Cal. Pen. C. Secs. 1455, 1456.

It is apparent that the word "or," as used in this section in the sentence "when

a judgment is entered imposing a fine, or ordering the defendant to be imprisoned," etc., should be "and." *State ex rel. Hodgdon v. District Court*, 33 Mont. 119, 121, 82 Pac. 663.

12342. Defendant may be admitted to bail at any time. The defendant, at any time after his arrest, and before conviction, may be admitted to bail. The provisions of this code relative to bail are applicable to bail in justices' or police courts.

History: En. Sec. 2720, Pen. C. 1895; re-en. Sec. 9624, Rev. C. 1907. Cal. Pen. C. Sec. 1458.

12343. Subpoena. The justice or judge of either of the courts mentioned in this chapter may issue subpoenas for witnesses, as provided in section 12179, and punish disobedience thereof, as provided in section 12184.

History: En. Sec. 2721, Pen. C. 1895; re-en. Sec. 9625, Rev. C. 1907. Cal. Pen. C. Sec. 1459.

12344. Entitling affidavits. The provisions of section 11873 in respect to entitling affidavits are applicable to proceedings in the courts mentioned in this chapter.

History: En. Sec. 2722, Pen. C. 1895; re-en. Sec. 9626, Rev. C. 1907. Cal. Pen. C. Sec. 1460.

12345. Police courts defined. The term "police court," as used in this chapter, includes police magistrates and police courts.

History: En. Sec. 2723, Pen. C. 1895; re-en. Sec. 9627, Rev. C. 1907. Cal. Pen. C. Sec. 1461.

12346. Officer must pay fines to justice. Any officer charged with the collection of fines, under the provisions of this chapter, must return the execution to the justice, within thirty days from its delivery to him, and pay over to the justice the money collected therefrom, deducting his fees for the collection.

History: En. Sec. 2724, Pen. C. 1895; re-en. Sec. 9628, Rev. C. 1907.

12347. Justices must pay fines to treasurer. All fines imposed and collected by any court, under the provisions of this chapter, must be paid by him to the treasurer of the county, city, or town, according as the offense is prosecuted in a justice or police court, within thirty days after the receipt of the same, and the justice or police judge must take duplicate receipts therefor, one of which he must deposit with the county, city, or town clerk, as the case may be.

Related sections: 11321, 12433.

History: En. Sec. 2725, Pen. C. 1895; re-en. Sec. 9629, Rev. C. 1907.

CHAPTER 53.

THE WRIT OF HABEAS CORPUS.

- | | |
|---------|--|
| Section | 12348. Who May Prosecute Writ. |
| | 12349. Application for, How Made. |
| | 12350. By Whom Issued, and Before Whom Returnable. |
| | 12351. Writ Must Be Granted Without Delay. |
| | 12352. What to Contain. |
| | 12353. How Served. |
| | 12354. Proceedings Upon Disobedience to the Writ. |
| | 12355. Return, What to Contain. |
| | 12356. Body Must Be Produced, When. |
| | 12357. Hearing Without Production of the Body. |
| | 12358. Hearing on Return. |
| | 12359. Proceedings on the Hearing. |
| | 12360. When Court May Discharge the Party. |
| | 12361. When to Remand Party. |
| | 12362. Grounds of Discharge in Certain Cases. |
| | 12363. Not to Be Discharged for Defect of Form in Warrant. |
| | 12364. Proceedings on Defective Warrant. |

- 12365. Writ for Purpose of Bail.
- 12366. Judge May Take Bail.
- 12367. Judge, When to Remand.
- 12368. Person in Illegal, May Be Committed to Legal Custody.
- 12369. Disposition of Party, Pending Proceedings on Return.
- 12370. Defect of Form in the Writ Immaterial, When.
- 12371. Imprisonment After Discharge, When Permitted.
- 12372. Warrant May Issue Instead of Writ, in Certain Cases.
- 12373. Warrant May Include Person Charged With Illegal Detention.
- 12374. Warrant, How Executed.
- 12375. Return and Hearing on.
- 12376. Party May Be Discharged or Remanded.
- 12377. Writ and Process May Issue at Any Time.
- 12378. By Whom Issued and When Returnable.
- 12379. Where Returnable.
- 12380. Damages for Failure to Issue or Obey Writ.

12348. Who may prosecute writ. Every person unlawfully imprisoned or restrained of his liberty, under any pretense whatever, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment or restraint.

Related section: 1217.

History: Sec. 9630, Rev. C. 1907. Cal. Pen. C. Sec. 1473.

Note.—Our present habeas corpus act was enacted in substance as sections 1 to 36, pp. 360 to 366, Bannack Statutes; re-enacted as sections 1 to 36, pp. 487 to 491, Codified Statutes 1871; re-enacted as sections 660 to 695, Fifth Division Revised Statutes 1879; re-enacted as sections 1164 to 1199, Fifth Division Compiled Statutes 1887; re-enacted as sections 2740 to 2772, Penal Code 1895; re-enacted as sections 9630 to 9662, Revised Codes 1907. A few substantial changes were made in 1895 and are noted.

Habeas corpus is not a special proceeding of a criminal nature. State ex rel. Brandegee v. Clements, 52 Mont. 57, 59, 155 Pac. 271; see, also, Newell v. Newell, 13 Mont. 302, 305, 34 Pac. 28; State ex rel. Jackson v. Kennie, 24 Mont. 45, 60 Pac.

589, and State ex rel. Hepner v. District Court, 40 Mont. 17, 104 Pac. 872.

Cited or applied as section 2740, Penal Code, in State ex rel. Jackson v. Kennie, 24 Mont. 45, 49, 60 Pac. 589; State ex rel. Whiteside v. District Court, 24 Mont. 539, 553, 63 Pac. 395; State ex rel. Murray v. District Court, 35 Mont. 504, 506, 90 Pac. 513.

For text treatment of "Habeas Corpus," see Cal. Jur. and 12 R. C. L. 1176.

Right of one detained pursuant to quarantine to prosecute writ of habeas corpus, see note in 2 A. L. R. 1542.

Right of alien enemy to demand habeas corpus, see notes in L. R. A. 1918B, 199; L. R. A. 1918E, 811.

Right of minor unlawfully enlisted in army or navy to discharge on habeas corpus from custody of court-martial under charge of desertion or fraudulent enlistment, see notes in 18 L. R. A. (N. S.) 956; L. R. A. 1917D, 1059.

12349. Application for, how made. Application for the writ is made by petition, signed either by the party for whose relief it is intended, or by some person in his behalf, and must specify—

1. That the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty, the officer or person by whom he is so confined or restrained, and the place where, naming all the parties, if they are known, or describing them, if they are not known.

2. If the imprisonment is alleged to be illegal, the petition must also state in what the alleged illegality consists.

3. The petition must be verified by the oath or affirmation of the party making the application.

History: Sec. 9631, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1474.

Cited or applied as section 2741, Penal Code, in State ex rel. Murray v. District Court, 35 Mont. 504, 506, 90 Pac. 513.

12350. By whom issued, and before whom returnable. The writ of habeas corpus may be granted—

1. By the supreme court, or any justice thereof, upon petition by or on behalf of any person restrained of his liberty in this state. When so issued it may be made returnable before the court, or any justice thereof, or before any district court or judge thereof.

2. By the district courts or a judge thereof, upon petition by or on behalf of any person restrained of his liberty in their respective counties or districts.

History: Sec. 9632, Rev. C. 1907. See Code, in State ex rel. Whiteside v. District Court, 24 Mont. 539, 553, 63 Pac. 395; also history of Sec. 12348. Cal. Pen. C. Sec. 1475. State ex rel. Murray v. District Court, 35 Mont. 504, 506, 90 Pac. 513.

Cited or applied as section 2742, Penal

12351. Writ must be granted without delay. Any court or judge authorized to grant the writ, to whom a petition therefor is presented, must, if it appear that the writ ought to issue, grant the same without delay.

History: Sec. 9633, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1476.

12352. What to contain. This writ must be directed to the person having custody of or restraining the person on whose behalf the application is made, and must command him to have the body of such person before the court, or judge, before whom the writ is returnable, at a time and place therein specified.

History: Amd. Sec. 2745, Pen. C. 1895; re-en. Sec. 9634, Rev. C. 1907. Cal. Pen. C. Sec. 1477.

12353. How served. If the writ is directed to the sheriff or other ministerial officer of the court out of which it issues, it must be delivered by the clerk to such officer without delay, as other writs are delivered for service. If it is directed to any other person it must be delivered to the sheriff, and be by him served upon such person by delivering the same to him without delay. If the person to whom the writ is directed cannot be found, or refuses admittance to the officer or person serving or delivering such writ, it may be served or delivered by leaving it at the residence of the person to whom it is directed, or by affixing it to some conspicuous place on the outside either of his dwelling-house, or of the place where the party is confined or under restraint.

History: Sec. 9635, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1478.

12354. Proceedings upon disobedience to the writ. If the person to whom the writ is directed refuses, after service, to obey the same, the court or judge, upon affidavit, must issue an attachment against such person, directed to the sheriff or coroner, commanding him forthwith to apprehend such person, and bring him immediately before such court or judge; and upon being so brought, he must be committed to the jail of the county until he makes due return to such writ, or is otherwise legally discharged.

History: Sec. 9636, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1479.

12355. Return, what to contain. The person upon whom the writ is served must state in his return, plainly and unequivocally—

1. Whether he has or has not the party in his custody or under his power or restraint.

2. If he has the party in his custody or power, or under his restraint, he must state the authority and cause of such imprisonment or restraint.

3. If the party is detained by virtue of any writ, warrant, or other written authority, a copy thereof must be annexed to the return and the original produced and exhibited to the court or judge on the hearing of such return.

4. If the person upon whom the writ is served had the party in his power or custody, or under his restraint, at any time prior or subsequent to the date of the writ of habeas corpus, but has transferred such custody or restraint to another, the return must state particularly to whom, at what time and place, for what cause, and by what authority, such transfer took place.

5. The return must be signed by the person making the same, and, except when such person is a sworn public officer, and makes such return in his official capacity, it must be verified by his oath.

History: Sec. 9637, Rev. C. 1907. See Cited or applied as section 1173, Fifth also history of Sec. 12348. Cal. Pen. C. Division Compiled Statutes 1887, in In re McCutcheon, 10 Mont. 115, 25 Pac. 97. Sec. 1480.

12356. Body must be produced, when. The person to whom the writ is directed, if it is served, must bring the body of the party in his custody, or under his restraint, according to the command of the writ, except in the cases specified in the next section.

History: Sec. 9638, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1481.

12357. Hearing without production of the body. When, from sickness or infirmity of the person directed to be produced, he cannot, without danger, be brought before the court or judge, the person in whose custody or power he is may state that fact in his return to the writ, verifying the same by affidavit. If the court or judge is satisfied of the truth of such return, and the return to the writ is otherwise sufficient, the court or judge may proceed to decide on such return and to dispose of the matter as if such party had been produced on the writ, or the hearing thereof may be adjourned until such party can be produced.

History: Sec. 9639, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1482.

12358. Hearing on return. The court or judge before whom the writ is returned must, immediately after the return, proceed to hear and examine the return, and such other matters as may be properly submitted to their hearing and consideration.

History: Sec. 9640, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1483.

12359. Proceedings on the hearing. The party brought before the court or judge, on the return of the writ, may deny or controvert any of the material facts of matters set forth in the return, or except to the sufficiency thereof, or allege any fact to show either that his imprisonment or detention is unlawful, or that he is entitled to his discharge. The court or judge must thereupon proceed in a summary way to hear such proof

as may be produced against such imprisonment or detention, or in favor of the same, and to dispose of such party as the justice of the case may require, and have full power and authority to require and compel the attendance of witnesses, by process of subpoena and attachment, and to do and perform all other acts and things necessary to a full and fair hearing and determination of the case.

History: Sec. 9641, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1484.

An order allowing bail in a homicide case is properly made, in the absence of a

showing, by the county attorney, that the proof of the defendant's guilt was evident or the presumption thereof great. State ex rel. Murray v. District Court, 35 Mont. 504, 507, 90 Pac. 513.

12360. When court may discharge the party. If no legal cause is shown for such imprisonment or restraint, or for the continuation thereof, such court or judge must discharge such party from the custody or restraint under which he is held.

History: Sec. 9642, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1485.

12361. When to remand party. The court or judge, if the time during which such party may be legally detained in custody has not expired, must remand such party, if it appears that he is detained in custody—

1. By virtue of process issued by any court or judge of the United States, in a case where such court or judge has exclusive jurisdiction; or,

2. By virtue of the final judgment or decree of any competent court of criminal jurisdiction, or of any process issued upon such judgment or decree.

History: Amd. Sec. 2753, Pen. C. 1895; re-en. Sec. 9643, Rev. C. 1907. Cal. Pen. C. Sec. 1486.

Where a petitioner for habeas corpus was convicted of murder, and oral judgment was rendered, confining him to prison for twenty-five years, without any record being made, but at a special term, after notice to petitioner and his counsel, the

minutes were corrected to show the judgment as rendered, and on the judgment thus entered a commitment was issued, the petitioner was legally in custody, for the purposes of the judgment, and not entitled to his discharge. In re Dye, 32 Mont. 132, 136, 79 Pac. 689.

Cited or applied as section 2753, Penal Code, in State ex rel. Jackson v. Kennie, 24 Mont. 45, 53, 60 Pac. 589.

12362. Grounds of discharge in certain cases. If it appears on the return of the writ that the prisoner is in custody by virtue of process from any court of this state, or judge or officer thereof, such prisoner may be discharged in any of the following cases, subject to the restriction of the last section:

1. When the jurisdiction of such court or officer has been exceeded.

2. When the imprisonment was at first lawful, yet by some act, omission, or event which has taken place afterwards, the party has become entitled to a discharge.

3. When the process is defective in some matter of substance required by law, rendering such process void.

4. When the process, though proper in form, has been issued in a case not allowed by law.

5. When the person having the custody of the prisoner is not the person allowed by law to detain him.

6. Where the process is not authorized by any order, judgment, or decree of any court, nor by any provision of law.

7. Where a party has been committed on a criminal charge without reasonable or probable cause.

History: Sec. 9644, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1487.

Where the court imposed a sentence for a term in the state prison for a crime which constituted a misdemeanor, its judgment was void as being in excess of its jurisdiction, and the prisoner was entitled to be discharged on habeas corpus. *State v. District Court*, 35 Mont. 321, 326, 89 Pac. 63.

Cited or applied as section 2754, Penal Code, in *State ex rel. Jackson v. Kennie*, 24 Mont. 45, 53, 60 Pac. 589; *In re Dye*, 32 Mont. 132, 136, 79 Pac. 689; as section 9644, Revised Codes, in *In re Jones*, 46 Mont. 122, 126, 126 Pac. 929.

Right of prisoner who has received excessive sentence to be discharged on habeas corpus, see notes in 7 Ann. Cas. 144; Ann. Cas. 1916D, 368; 45 L. R. A. 144; 51 L. R. A. (N. S.) 373.

Habeas corpus to secure release of one convicted while insane, see note in L. R. A. 1918B, 81.

Habeas corpus to inquire into court-martial proceedings and imprisonment under military power, see notes in 17 Ann. Cas. 446, 448; Ann. Cas. 1914C, 30.

Errors or irregularities in proceedings as reviewable by habeas corpus, see note in 11 Ann. Cas. 1051.

12363. Not to be discharged for defect of form in warrant. If any person is committed to prison or is in custody of any officer on a criminal charge, by virtue of any warrant of commitment of a justice of the peace, such person must not be discharged on the ground of any mere defect of form in the warrant of commitment.

History: Sec. 9645, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1488.

Where a person, after a preliminary examination, is committed for grand larceny, and, upon his suing out a writ of habeas corpus, on the ground that he is

guilty of petit larceny only, it appears from the evidence before the justice that he was guilty at least of petit larceny, and that there was a reasonable basis for the belief that he was guilty of grand larceny, it is the imperative duty of the court to remand him. *In re Jones*, 46 Mont. 122, 125, 126 Pac. 929.

12364. Proceedings on defective warrant. If it appears to the court or judge, by affidavit or otherwise, or upon the inspection of the process or warrant of commitment and such other papers in the proceedings as may be shown to the court or judge, that the party is guilty of a criminal offense, or ought not to be discharged, such court or judge, although the charge is defective or not substantially set forth in such process or warrant of commitment, must cause the complainant or other necessary witnesses to be subpoenaed to attend at such time as ordered, to testify before the court or judge; and upon the examination he may discharge such prisoner, let him to bail, if the offense be bailable, or recommit him to custody, as may be just and legal.

History: Sec. 9646, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1489.

Cited or applied as section 2756, Penal

Code, in *State ex rel. Murray v. District Court*, 35 Mont. 504, 507, 90 Pac. 513; as section 9646, Revised Codes, in *In re Lewis*, 51 Mont. 539, 154 Pac. 713.

12365. Writ for purpose of bail. When a person is imprisoned or detained in custody on any criminal charge, for want of bail, such person is entitled to a writ of habeas corpus for the purpose of giving bail, upon averring that fact in his petition, without alleging that he is illegally confined.

History: Sec. 9647, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1490.

12366. Judge may take bail. Any judge before whom a person who has been committed on a criminal charge may be brought on a writ of habeas corpus, if the same is bailable, may take an undertaking of bail from such person as in other cases, and file the same in the proper court.

History: Sec. 9648, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1491.

It is proper to allow bail, in a homicide case, in the absence of a showing, by the

county attorney, that the proof of the defendant's guilt is evident or the presumption thereof great. *State ex rel. Murray v. District Court*, 35 Mont. 504, 507, 90 Pac. 513.

12367. Judge, when to remand. If a party brought before the court or judge on the return of the writ is not entitled to his discharge, and is not bailed, where such bail is allowable, the court or judge must remand him to custody or place him under the restraint from which he was taken, if the person under whose custody or restraint he was, is legally entitled thereto.

History: Sec. 9649, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1492.

12368. Person in illegal, may be committed to legal custody. In cases where any party is held under illegal restraint or custody, or any other person is entitled to the restraint or custody of such party, the judge or court may order such party to be committed to the restraint or custody of such person as is by law entitled thereto.

History: Sec. 9650, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1493.

Cited or applied as section 9650, Revised Codes, in *In re Lewis*, 51 Mont. 539, 154 Pac. 713.

12369. Disposition of party, pending proceedings on return. Until judgment is given on the return, the court or judge before whom any party may be brought on such writ, may commit him to the custody of the sheriff of the county, or place him in such care or under such custody as his age or circumstances may require.

History: Sec. 9651, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1494.

12370. Defect of form in the writ immaterial, when. No writ of habeas corpus can be disobeyed for defect of form, if it sufficiently appear therefrom in whose custody or under whose restraint the party imprisoned or restrained is, the officer or person detaining him, and the court or judge before whom he is to be brought.

History: Sec. 9652, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1495.

12371. Imprisonment after discharge, when permitted. No person who has been discharged by the order of the court or judge upon habeas corpus can be again imprisoned, restrained, or kept in custody for the same cause, except in the following cases:

1. If he has been discharged from custody on a criminal charge, and is afterward committed for the same offense, by legal order or process.
2. If, after a discharge for defect of proof, or for any defect of the process, warrant, or commitment in a criminal case, the prisoner is again

arrested on sufficient proof and committed by legal process for the same offense.

History: Sec. 9653, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1496.

12372. Warrant may issue instead of writ, in certain cases. When it appears to any court or judge, authorized by law to issue the writ of habeas corpus, that any one is illegally held in custody, confinement, or restraint, and that there is reason to believe that such person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ of habeas corpus can be enforced, such court or judge may cause a warrant to be issued, reciting the facts, and directed to the sheriff, coroner, or constable of the county, commanding such officer to take such person thus held in custody, confinement, or restraint, and forthwith bring him before such court or judge, to be dealt with according to law.

History: Sec. 9654, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1497.

12373. Warrant may include person charged with illegal detention. The court or judge may also insert in such warrant a command for the apprehension of the person charged with such illegal detention and restraint.

History: Sec. 9655, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1498.

12374. Warrant, how executed. The officer to whom such warrant is delivered must execute it by bringing the person therein named before the court or judge who directed the issuing of such warrant.

History: Sec. 9656, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1499.

12375. Return and hearing on. The person alleged to have such party under illegal confinement or restraint may make return to such warrant, as in case of a writ of habeas corpus, and the same may be denied, and like allegations, proofs, and trial may thereupon be had as upon a return to a writ of habeas corpus.

History: Sec. 9657, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1500.

12376. Party may be discharged or remanded. If such party is held under illegal restraint or custody, he must be discharged, and if not, he must be restored to the care or custody of the person entitled thereto.

History: Sec. 9658, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1501.

12377. Writ and process may issue at any time. Any writ or process authorized by this chapter may be issued and served on any day or at any time.

History: First enacted as Sec. 2769, Pen. C. 1895; re-en. Sec. 9659, Rev. C. 1907. Cal. Pen. C. Sec. 1502.

12378. By whom issued and when returnable. All writs, warrants, process, and subpoenas, authorized by the provisions of this chapter, must be issued by the clerk of the court, and, except subpoenas, must be sealed with the seal of such court, and served and returned forthwith, unless the court or judge shall specify a particular time for such return.

History: Sec. 9660, Rev. C. 1907. See also history of Sec. 12348. Cal. Pen. C. Sec. 1503.

12379. Where returnable. All such writs and process, when made returnable before a judge, must be returned before him at the county seat, and there heard and determined.

History: First enacted as Sec. 2771, Pen. C. 1895; re-en. Sec. 9661, Rev. C. 1907. Cal. Pen. C. Sec. 1504.

12380. Damages for failure to issue or obey writ. If any judge, after a proper application is made, refuses to grant an order for a writ of habeas corpus, or if the officer or person to whom such writ may be directed, refuses obedience to the command thereof, he shall forfeit and pay to the person aggrieved a sum not exceeding five thousand dollars, to be recovered by action in any court of competent jurisdiction.

History: Sec. 9662, Rev. C. 1907. See Code, in State ex rel. Jackson v. Kennie, 24 Mont. 45, 49, 60 Pac. 589. also history of Sec. 12348. Cal. Pen. C. Sec. 1505.

When refusal of writ of habeas corpus justifiable, see note in 67 Am. Dec. 395.

Cited or applied as section 2772, Penal

CHAPTER 54.

CORONERS' INQUEST.

Section 12381. Coroner to Summon Jury to Inquire Into Cause of Death.

- 12382. Jurors to Be Sworn.
- 12383. Witnesses to Be Subpoenaed.
- 12384. Witness Compelled to Attend.
- 12385. Verdict of Jury in Writing, What to Contain.
- 12386. Testimony in Writing, and Where Filed.
- 12387. Exception.
- 12388. Coroner to Issue Warrant, When.
- 12389. Inquest Secret Until After Arrest.
- 12390. Warrant.
- 12391. Same.
- 12392. Form of Warrant.
- 12393. How Served.

12381. Coroner to summon jury to inquire into cause of death. When a coroner is informed that a person has been killed, or has committed suicide, or has died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by the act of another by criminal means, he must go to the place where the body is, cause it to be exhumed if it has been interred, and summon not more than nine persons, qualified by law to serve as jurors, to appear before him, forthwith, at the place where the body of the deceased is, to inquire into the cause of the death.

Related section: 4848.

History: En. Sec. 2790, Pen. C. 1895; re-en. Sec. 9663, Rev. C. 1907. Cal. Pen. C. Sec. 1510.

Note.—Earlier acts relating to coroner's inquests and differing materially from the present law were: Sections 72 to 86, pp. 448 to 450, Codified Statutes 1871; re-

enacted as sections 418 to 432, Fifth Division Revised Statutes 1879; re-enacted as sections 869 to 883, Fifth Division Compiled Statutes 1887.

For text treatment of "Coroners," see Cal. Jur. and 6 R. C. L. 1164.

12382. Jurors to be sworn. When six or more of the jurors attend, they must be sworn by the coroner to inquire who the person was, and when, where, and by what means he came to his death, and into the circumstances attending his death; and to render a true verdict thereon, according to the evidence offered them, or arising from the inspection of the body.

History: En. Sec. 2791, Pen. C. 1895; re-en. Sec. 9664, Rev. C. 1907. Cal. Pen. C. Sec. 1511.

12383. Witnesses to be subpoenaed. A coroner may issue subpoenas for witnesses, returnable forthwith; or at such time and place as he may appoint, which may be served by any competent person. He must summon and examine as witnesses every person who, in his opinion, or that of any of the jury, has any knowledge of the facts, and may summon a surgeon or physician to inspect the body, and give a professional opinion as to the cause of the death.

History: En. Sec. 2792, Pen. C. 1895; re-en. Sec. 9665, Rev. C. 1907. Cal. Pen. C. Sec. 1512.

12384. Witness compelled to attend. A witness served with a subpoena may be compelled to attend and testify, or punished by the coroner for disobedience in like manner as upon a subpoena issued by a justice of the peace.

History: En. Sec. 2793, Pen. C. 1895; re-en. Sec. 9666, Rev. C. 1907. Cal. Pen. C. Sec. 1513.

12385. Verdict of jury in writing, what to contain. After inspecting the body and hearing the testimony, the jury must render their verdict, and certify the same by an inquisition in writing, signed by them and setting forth who the person killed is, and when, where, and by what means he came to his death; and if he was killed, or his death occasioned by the act of another, by criminal means, who is guilty thereof.

History: En. Sec. 2794, Pen. C. 1895; re-en. Sec. 9667, Rev. C. 1907. Cal. Pen. C. Sec. 1514.

12386. Testimony in writing, and where filed. The testimony of the witnesses examined before the coroner's jury must be reduced to writing by the coroner, or under his direction, and forthwith filed by him, with the inquisition, in the office of the clerk of the district court of the county.

History: En. Sec. 2795, Pen. C. 1895; re-en. Sec. 9668, Rev. C. 1907. Cal. Pen. C. Sec. 1515.

12387. Exception. If, however, the person charged with the commission of the offense is arrested before the inquisition can be filed, the coroner must deliver the same, with the testimony taken, to the magistrate before whom such person may be brought, who must return the same, with the depositions and statement taken before him, to the office of the clerk of the district court.

History: En. Sec. 2796, Pen. C. 1895; re-en. Sec. 9669, Rev. C. 1907. Cal. Pen. C. Sec. 1516.

12388. Coroner to issue warrant, when. If the jury find that the person was killed by another, under circumstances not excusable or justifiable by law, or that his death was occasioned by the act of another by criminal means, and the party committing the act is ascertained by the inquisition, and is not in custody, the coroner must issue a warrant, signed by him, with his name of office, into one or more counties, as may be necessary for the arrest of the person charged.

History: En. Sec. 2797, Pen. C. 1895; re-en. Sec. 9670, Rev. C. 1907. Cal. Pen. C. Sec. 1517.

12389. Inquest secret until after arrest. If the inquisition find a crime has been committed on the deceased, and name the person who the jury believes has committed it, the inquest shall not be made public until after the arrest, directed in the next section.

History: En. Sec. 2798, Pen. C. 1895; re-en. Sec. 9671, Rev. C. 1907.

12390. Warrant. If the person charged be present, the coroner may order his arrest, by an officer or any person, and must make a warrant requiring the officer or other person to take him before the most accessible magistrate of the county.

History: En. Sec. 2799, Pen. C. 1895; re-en. Sec. 9672, Rev. C. 1907.

12391. Same. If the person charged be not present, and the coroner believes he can be taken, the coroner may issued a warrant to the sheriff, or any constable of the county, requiring him to arrest the person and take him before a magistrate.

History: En. Sec. 2800, Pen. C. 1895; re-en. Sec. 9673, Rev. C. 1907.

12392. Form of warrant. The coroner's warrant must be substantially in the following form:

"County of

"The State of Montana to any sheriff, constable, marshal, or policeman of this state:

"An inquisition having been this day found by a coroner's jury before me, stating that A B has come to his death by the act of C D, by criminal means (or as the case may be, as found by the inquisition), you are therefore commanded forthwith to arrest the above named C D, and take him before the nearest or most accessible magistrate in this county.

"Given under my hand this day of, A. D. nineteen

"E F, Coroner of the County of"

History: En. Sec. 2801, Pen. C. 1895; re-en. Sec. 9674, Rev. C. 1907. Cal. Pen. C. Sec. 1518.

12393. How served. The coroner's warrant may be served in any county, and the officer serving it must proceed thereon, in all respects as upon a warrant of arrest on an information before a magistrate, except that when served in another county it need not be indorsed by a magistrate of that county.

History: En. Sec. 2802, Pen. C. 1895; re-en. Sec. 9675, Rev. C. 1907. Cal. Pen. C. Sec. 1519.

CHAPTER 55.

SEARCH-WARRANTS.

- Section 12394.** Search-warrant Defined.
 12395. Upon What Ground It May Issue.
 12396. It Cannot Be Issued But Upon Probable Cause.
 12397. Magistrates Must Examine on Oath, Complainant, etc.
 12398. Deposition, What to Contain.
 12399. When to Issue Warrant.
 12400. Form of Warrant.
 12401. By Whom Served.
 12402. Officer May Break Open Door, etc., to Execute Warrant.
 12403. May Break Open Door, etc., to Liberate Person, Acting in His Aid.
 12404. When Warrant May Be Served in the Night.
 12405. Within What Time Warrant Must Be Executed.
 12406. Officer to Give Receipt for Property Taken.
 12407. Property, How Disposed of.
 12408. Sale of Property When a Living Animal or of Perishable Nature.
 12409. Return of Warrant and Inventory of Property.
 12410. Copy of Inventory, to Whom Delivered.
 12411. Proceedings If Grounds of Warrant Are Controverted.
 12412. Property, When to Be Restored.
 12413. Depositions, Warrants, etc., to Be Returned by Magistrate to District Court.
 12414. Search of Defendant in Presence of Magistrate.

12394. Search-warrant defined. A search-warrant is an order in writing, in the name of the state, signed by a magistrate, directed to a peace officer, commanding him to search for personal property, and bring it before the magistrate.

Related section: 10948.

History: En. Sec. 2820, Pen. C. 1895; re-en. Sec. 9676, Rev. C. 1907. Cal. Pen. C. Sec. 1523.

Note.—For earlier acts relating to search-warrants, differing materially from the present law, see sections 274 to 286, pp. 258 to 260, Bannack Statutes; re-enacted as sections 430 to 442, pp. 256 to 257, Codified Statutes 1871; re-enacted as sec-

tions 436 to 442, Third Division Revised Statutes 1879; re-enacted as sections 432 to 444, Third Division Compiled Statutes 1887.

For text treatment of "Search and Seizure," see Cal. Jur. and 24 R. C. L. 699.

History and purpose of search-warrants, see note in 40 Am. Dec. 666.

12395. Upon what ground it may issue. It may be issued upon either of the following grounds:

1. When the property was stolen or embezzled; in which case it may be taken on the warrant, from any place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or from any person in whose possession it may be.

2. When it was used as the means of committing a felony; in which case it may be taken on the warrant from the place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or from any person in whose possession it may be.

3. When it is in the possession of any person with the intent to use it as the means of committing a public offense, or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered; in which case it may be taken on the warrant from such person, or from any place occupied by him or

under his control, or from the possession of the person to whom he may have so delivered it.

History: En. Sec. 2821, Pen. C. 1895; re-en. Sec. 9677, Rev. C. 1907. Cal. Pen. C. Sec. 1524.

Violations of city ordinance are not included within the meaning of the expression "public offense," as those words are used in this section. State ex rel. Streit v. Justice Court, 45 Mont. 375, 381, 123 Pac. 405, 48 L. R. A. (N. S.) 156.

The use of search-warrants is not to be extended by construction to any case not clearly covered by the statute. State ex rel. Streit v. Justice Court, 45 Mont. 375, 382, 123 Pac. 405, 48 L. R. A. (N. S.) 156.

The alleged threatened violation of a town ordinance, by conducting a saloon without first obtaining a license, does not

justify the issuance of a search-warrant commanding that a designated building be searched for intoxicating liquors. State ex rel. Streit v. Justice Court, 45 Mont. 375, 382, 123 Pac. 405.

Cited or applied as section 2821, Penal Code, in State ex rel. Geyman v. District Court, 26 Mont. 483, 486, 68 Pac. 861.

Constitutional guaranties against unreasonable searches and seizures as applicable to search for or seizure of intoxicating liquors, see notes in 3 A. L. R. 1514; 13 A. L. R. 1316.

Power to issue warrant for search of train, see note in 7 A. L. R. 121.

Search and seizure under the Volstead act, see note in 10 A. L. R. 1553.

12396. It cannot be issued but upon probable cause. A search-warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched.

History: En. Sec. 2822, Pen. C. 1895; re-en. Sec. 9678, Rev. C. 1907. Cal. Pen. C. Sec. 1525.

12397. Magistrates must examine on oath, complainant, etc. The magistrate must, before issuing the warrant, examine on oath the complainant, and any witnesses he may produce, and take their depositions in writing, and cause them to be subscribed by the parties making them.

History: En. Sec. 2823, Pen. C. 1895; re-en. Sec. 9679, Rev. C. 1907. Cal. Pen. C. Sec. 1526.

12398. Deposition, what to contain. The deposition must set forth the facts tending to establish the grounds of the application, or probable cause for believing that they exist.

History: En. Sec. 2824, Pen. C. 1895; re-en. Sec. 9680, Rev. C. 1907. Cal. Pen. C. Sec. 1527.

Cited or applied as section 2824, Penal Code, in State ex rel. Geyman v. District Court, 26 Mont. 483, 486, 68 Pac. 861.

12399. When to issue warrant. If the magistrate is thereupon satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, he must issue a search-warrant, signed by him with his name of office, to a peace officer in his county, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate.

History: En. Sec. 2825, Pen. C. 1895; re-en. Sec. 9681, Rev. C. 1907. Cal. Pen. C. Sec. 1528.

12400. Form of warrant. The warrant must be in substantially the following form:

"County of

"The State of Montana to any sheriff, constable, marshal, or policeman, in the county of

"Proof, by affidavit, having been this day made before me, by (naming every person whose affidavit has been taken) that (stating the grounds

of the application, according to section 12396, or if the affidavit be not positive that there is probable cause for believing), that (stating the grounds of the application in the same manner), you are therefore commanded in the daytime (or at any time of the day or night, as the case may be, according to section 12404), to make immediate search on the person of C D, or in the house situated (describing it or any other place to be searched, with reasonable particularity, as the case may be) for the following property (describing it with reasonable particularity); and if you find the same or any part thereof, to bring it forthwith before me at (stating the place).

"Given under my hand, and dated this day of, A. D. nineteen

"E F, Justice of the Peace" (or as the case may be).

History: En. Sec. 2826, Pen. C. 1895; re-en. Sec. 9682, Rev. C. 1907. Cal. Pen. C. Sec. 1529.

Sufficiency of description of premises in search-warrant or affidavit therefor, see notes in 17 Ann. Cas. 232; Ann. Cas. 1916D, 952.

Cited or applied as section 9682, Revised Codes, in *State v. Kelly et al.*, 57 Mont. 123, 129, 187 Pac. 637.

12401. By whom served. A search-warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution.

History: En. Sec. 2827, Pen. C. 1895; re-en. Sec. 9683, Rev. C. 1907. Cal. Pen. C. Sec. 1530.

12402. Officer may break open door, etc., to execute warrant. The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.

History: En. Sec. 2828, Pen. C. 1895; re-en. Sec. 9684, Rev. C. 1907. Cal. Pen. C. Sec. 1531.

Cited or applied as section 2828, Penal Code, in *State ex rel. Geyman v. District Court*, 26 Mont. 483, 486, 68 Pac. 861.

12403. May break open door, etc., to liberate person acting in his aid. He may break open any outer or inner door or window of a house, for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation.

History: En. Sec. 2829, Pen. C. 1895; re-en. Sec. 9685, Rev. C. 1907. Cal. Pen. C. Sec. 1532.

12404. When warrant may be served in the night. The magistrate must insert a direction in the warrant that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched, in which case he may insert a direction that it be served at any time of the day or night.

History: En. Sec. 2830, Pen. C. 1895; re-en. Sec. 9686, Rev. C. 1907. Cal. Pen. C. Sec. 1533.

12405. Within what time warrant must be executed. A search-warrant must be executed and returned to the magistrate who issued

it within ten days after its date; after the expiration of this time the warrant, unless executed, is void.

History: En. Sec. 2831, Pen. C. 1895; re-en. Sec. 9687, Rev. C. 1907. Cal. Pen. C. Sec. 1534.

12406. Officer to give receipt for property taken. When the officer takes the property under the warrant, he must give a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or, in the absence of any person, he must leave it in the place where he found the property.

History: En. Sec. 2832, Pen. C. 1895; re-en. Sec. 9688, Rev. C. 1907. Cal. Pen. C. Sec. 1535.

12407. Property, how disposed of. When the property is delivered to the magistrate, he must, if it was stolen or embezzled, dispose of it as provided in sections 12241 to 12246, inclusive. If it was taken on a warrant issued on the grounds stated in the second and third subdivisions of section 12395, he must retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or to any other court in which the offense, in respect to which the property taken, is triable.

History: En. Sec. 2833, Pen. C. 1895; re-en. Sec. 9689, Rev. C. 1907. Cal. Pen. C. Sec. 1536.

12408. Sale of property when a living animal or of perishable nature. If the property thus obtained be a living animal or be of a perishable nature, the court or magistrate authorized to order a restoration may order a sale thereof, and the proceeds shall be applied in the same manner as hereinbefore directed in respect to such property.

History: En. Sec. 2834, Pen. C. 1895; re-en. Sec. 9690, Rev. C. 1907.

12409. Return of warrant and inventory of property. The officer must forthwith return the warrant to the magistrate, and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory, and taken before the magistrate at the time, to the following effect: "I, R S, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant."

History: En. Sec. 2835, Pen. C. 1895; re-en. Sec. 9691, Rev. C. 1907. Cal. Pen. C. Sec. 1537.

12410. Copy of inventory, to whom delivered. The magistrate must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken, and to the applicant for the warrant.

History: En. Sec. 2836, Pen. C. 1895; re-en. Sec. 9692, Rev. C. 1907. Cal. Pen. C. Sec. 1538.

12411. Proceedings if grounds of warrant are controverted. If the grounds upon which the warrant was issued be controverted, he must proceed to take testimony in relation thereto, and the testimony of each

witness must be reduced to writing and authenticated in the same manner as prescribed in section 11783.

History: En. Sec. 2837, Pen. C. 1895; Review of search-warrant proceedings, re-en. Sec. 9693, Rev. C. 1907. Cal. Pen. C. see note in 6 Ann. Cas. 615. Sec. 1539.

12412. Property, when to be restored. If it appears that the property taken is not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the magistrate must cause it to be restored to the person from whom it was taken.

History: En. Sec. 2838, Pen. C. 1895; re-en. Sec. 9694, Rev. C. 1907. Cal. Pen. C. Sec. 1540.

12413. Depositions, warrants, etc., to be returned by magistrate to district court. The magistrate must annex together the depositions, search warrant, and return, and the inventory, and return them to the next term or session of the district court having power to inquire into the offenses in respect to which the search-warrant was issued, at or before its opening on the first day.

History: En. Sec. 2839, Pen. C. 1895; re-en. Sec. 9695, Rev. C. 1907. Cal. Pen. C. Sec. 1541.

12414. Search of defendant in presence of magistrate. When a person charged with a felony is supposed by the magistrate before whom he is brought to have on his person a dangerous weapon, or anything which may be used as evidence of the commission of the offense, the magistrate may direct him to be searched in his presence, and the weapon or other thing to be retained, subject to his order, or to the order of the court in which the defendant may be tried.

History: En. Sec. 2840, Pen. C. 1895; re-en. Sec. 9696, Rev. C. 1907. Cal. Pen. C. Sec. 1542.

CHAPTER 56.

PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE.

- Section 12415. Rewards for the Apprehension of Fugitives From Justice.
 12416. Standing Reward.
 12417. Payment of Reward.
 12418. Fugitives From Another State, When to Be Delivered Up.
 12419. Magistrate to Issue Warrant.
 12420. Proceedings for the Arrest and Commitment of the Person Charged.
 12421. When and for What Time to Be Committed.
 12422. His Admission to Bail.
 12423. Magistrate Must Notify County Attorney of the Arrest.
 12424. Duty of the County Attorney.
 12425. Person Arrested, When to Be Discharged.
 12426. Magistrate to Return His Proceedings to District Court.
 12427. Fugitives From This State—Accounts.
 12428. No Fee to Be Paid to Public Officer Procuring Surrender.

12415. Rewards for the apprehension of fugitives from justice. The governor may offer a reward not exceeding one thousand dollars, payable out of the general fund, for the apprehension—

1. Of any convict who has escaped from the state prison; or,

2. Of any person who has committed, or is charged with the commission of a felony.

History: En. Sec. 2850, Pen. C. 1895; re-en. Sec. 9697, Rev. C. 1907. Cal. Pen. C. Sec. 1547.

12416. Standing reward. The governor must offer a standing reward of three hundred dollars for the arrest of any person engaged in the robbery of, or in an attempt to rob, any person or persons upon, or having in charge, in whole or in part, any stage coach, wagon, railroad train, or other conveyance, engaged at the time in carrying passengers; or any private conveyance within this state, the reward to be paid to the person making the arrest, immediately upon the conviction of the person arrested; but no reward shall be paid except after such conviction.

History: En. Sec. 2851, Pen. C. 1895; Cited or applied as section 287, Fourth re-en. Sec. 9698, Rev. C. 1907. Cal. Pen. C. Division Compiled Statutes 1887, in State v. Cook, 13 Mont. 465, 34 Pac. 770. Sec. 1547.

12417. Payment of reward. When a person apprehends and delivers to the proper sheriff or officer the person for whose apprehension a reward is offered, he must take his certificate of such delivery, and the governor, on the production of such certificate, must certify the amount of the claim to the auditor.

History: Ap. p. Sec. 458, p. 259, Cod. Stat. 1887; amd. Sec. 2852, Pen. C. 1895; Stat. 1871; re-en. Sec. 458, 3d Div. Rev. re-en. Sec. 9698, Rev. C. 1907. Stat. 1879; re-en. Sec. 460, 3d Div. Comp.

12418. Fugitives from another state, when to be delivered up. A person charged in any state of the United States with treason, felony, or other crime, who flees from justice and is found in this state, must, on demand of the executive authority of the state from which he fled, be delivered up by the governor of this state, to be removed to the state having jurisdiction of the crime.

History: En. Sec. 2853, Pen. C. 1895; For text treatment of "Extradition," see re-en. Sec. 9700, Rev. C. 1907. Cal. Pen. C. Cal. Jur. and 11 R. C. L. 709. Sec. 1548.

12419. Magistrate to issue warrant. A magistrate may issue a warrant for the apprehension of the person so charged, who flees from justice and is found in this state.

History: En. Sec. 2854, Pen. C. 1895; re-en. Sec. 9701, Rev. C. 1907. Cal. Pen. C. Sec. 1549.

12420. Proceedings for the arrest and commitment of the person charged. The proceedings for the arrest and commitment of a person so charged are, in all respects, similar to those provided in this code for the arrest and commitment of a person charged with a public offense committed in this state, except that an exemplified copy of the indictment found, or other judicial proceedings had against him, in the state in which he is charged to have committed the offense, may be received as evidence before the magistrate.

History: En. Sec. 2855, Pen. C. 1895; re-en. Sec. 9702, Rev. C. 1907. Cal. Pen. C. Sec. 1550.

12421. When and for what time to be committed. If, from the examination, it appears that the accused has committed the crime alleged, the

magistrate, by warrant reciting the accusation, must commit him to the proper custody in his county, for such time, to be specified in the warrant, as the magistrate may deem reasonable, to enable the arrest of the fugitive under the warrant of the executive of this state, on the requisition of the executive authority of the state in which he committed the offense, unless he gives bail as provided in the next section, or until he is legally discharged.

History: En. Sec. 2856, Pen. C. 1895; re-en. Sec. 9703, Rev. C. 1907. Cal. Pen. C. Sec. 1551.

12422. His admission to bail. The magistrate may admit the person arrested to bail by an undertaking with sufficient sureties, and in such sum as he deems proper, for his appearance before him at a time specified in the undertaking, and for his surrender to arrest upon the warrant of the governor of this state.

History: En. Sec. 2857, Pen. C. 1895; re-en. Sec. 9704, Rev. C. 1907. Cal. Pen. C. Sec. 1552.

12423. Magistrate must notify county attorney of the arrest. Immediately upon the arrest of the person so charged, the magistrate must give notice thereof to the county attorney of the county.

History: En. Sec. 2858, Pen. C. 1895; re-en. Sec. 9705, Rev. C. 1907. Cal. Pen. C. Sec. 1553.

12424. Duty of the county attorney. The county attorney must immediately thereafter give notice to the executive authority of the state, or to the prosecuting attorney or presiding judge of the court of the city or county within the state having jurisdiction of the offense, to the end that a demand may be made for the arrest and surrender of the person so charged.

History: En. Sec. 2859, Pen. C. 1895; re-en. Sec. 9706, Rev. C. 1907. Cal. Pen. C. Sec. 1554.

12425. Person arrested, when to be discharged. The person arrested must be discharged from custody or bail, unless, before the expiration of the time designated in the warrant or undertaking, he is arrested under the warrant of the governor of this state.

History: En. Sec. 2860, Pen. C. 1895; re-en. Sec. 9707, Rev. C. 1907. Cal. Pen. C. Sec. 1555.

12426. Magistrate to return his proceedings to district court. The magistrate must return his proceedings to the district court of the county, which must thereupon inquire into the cause of the arrest and detention of the person charged, and if he is in custody, or the time of his arrest has not elapsed, it may discharge him from detention, or may order his undertaking or bail to be canceled, or may continue his detention for a longer time, or readmit him to bail, to appear and surrender himself within a time specified in the undertaking.

History: En. Sec. 2861, Pen. C. 1895; re-en. Sec. 9708, Rev. C. 1907. Cal. Pen. C. Sec. 1556.

12427. Fugitives from this state—Accounts. When the governor of this state, in the exercise of the authority conferred by section 2, article IV, of the constitution of the United States, or by the laws of this state,

demands from the executive authority of any state of the United States, or of any foreign government, the surrender to the authorities of this state of a fugitive from justice, who has been found and arrested in such state or foreign government, the accounts of the person employed by him to bring back such fugitive must be audited by the board of examiners, and paid out of the state treasury.

History: En. Sec. 2862, Pen. C. 1895; re-en. Sec. 9709, Rev. C. 1907. Cal. Pen. C. Sec. 1557.

12428. No fee to be paid to public officer procuring surrender. No compensation, fee, or reward of any kind can be paid to or received by a public officer of this state, or other person, for a service rendered in procuring from the governor the demand mentioned in the last section, or the surrender of the fugitive or for conveying him to this state, or detaining him therein, except as provided for in such section.

Related section: 10919. re-en. Sec. 9710, Rev. C. 1907. Cal. Pen. C.
History: En. Sec. 2863, Pen. C. 1895; Sec. 1558.

CHAPTER 57.

MISCELLANEOUS PROVISIONS RESPECTING SPECIAL PROCEEDING OF A CRIMINAL NATURE.

Section 12429. Parties to Special Proceedings, How Designated.

12430. Entitling Affidavits.

12431. Subpoenas.

12429. Parties to special proceedings, how designated. The party prosecuting a special proceeding of a criminal nature is designated in this code as the complainant, and the adverse party as the defendant.

History: En. Sec. 2890, Pen. C. 1895; re-en. Sec. 9711, Rev. C. 1907. Cal. Pen. C. Sec. 1562. The term "defendant" is not a proper designation for a petitioner in a habeas corpus proceeding. State ex rel. Jackson v. Kenzie, 24 Mont. 45, 50, 60 Pac. 589.

12430. Entitling affidavits. The provisions of section 11873, in respect to entitling affidavits, are applicable to such proceedings.

History: En. Sec. 2891, Pen. C. 1895; re-en. Sec. 9712, Rev. C. 1907. Cal. Pen. C. Sec. 1563.

12431. Subpoenas. The courts or magistrates before whom such proceedings are prosecuted, may issue subpoenas for witnesses, and punish their disobedience in the same manner as in a criminal action.

History: En. Sec. 2892, Pen. C. 1895; re-en. Sec. 9713, Rev. C. 1907. Cal. Pen. C. Sec. 1564.

CHAPTER 58.

PROCEEDINGS FOR OBTAINING PRISONER'S ATTENDANCE AT COURT.

Section 12432. Persons Imprisoned in Another County, How Brought Before a Court.

12432. Persons imprisoned in another county, how brought before a court. When it is necessary to have a person imprisoned in the state prison brought before any court, or a person imprisoned in a county

jail brought before a court sitting in another county, an order for that purpose may be made by the court, and executed by the sheriff of the county where it is made.

Related section: 12186.

re-en. Sec. 9714, Rev. C. 1907. Cal. Pen. C.

History: En. Sec. 2900, Pen. C. 1895;

Sec. 1567.

CHAPTER 59.

HOW FINES AND FORFEITURES ARE DISPOSED OF.

Section 12433. Fines and Forfeitures, How Disposed of.

12433. Fines and forfeitures, how disposed of. All fines and forfeitures collected in any court, except police courts, must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred; and after such costs are paid, the residue must be paid to the county treasurer of the county in which the court is held.

Related sections: 11321, 12347.

History: En. Sec. 2910, Pen. C. 1895;
re-en. Sec. 9715, Rev. C. 1907. Cal. Pen. C.
Sec. 1570.

proceedings, and costs incurred therein must be paid from any fine imposed. State ex rel. Flynn v. District Court, 24 Mont. 33, 36, 60 Pac. 493. See, also, Dunlavey v. Doggett, 38 Mont. 204, 209, 99 Pac. 436.

This section is applicable to contempt

PART III.

PENAL AND REFORMATORY INSTITUTIONS.

- Chapter 1. The State Prison.
2. County Jails.
 3. Montana State Industrial School.
 4. State Parole Commissioner.
 5. State Vocational School for Girls.
 6. Commitment of Female Persons to Reformatory Institutions.

CHAPTER 1.

THE STATE PRISON.

- Section 12434. Board of State Prison Commissioners.
12435. Board Has Control of Grounds, etc.
12436. Officers of Board.
12437. Duty of Secretary.
12438. Warden—Appointment, Salary, and Removal.
12439. Duties of Warden.
12440. Same.
12441. Hours of Labor for Prison Guards.
12442. Penalty for Violation of Act.
12443. Residence of Warden, Monthly Estimate.
12444. Accounts to Be Certified by Warden.
12445. Sealed Proposals for Supplies.
12446. Labor of Convicts.
12447. Employment of Convicts.
12448. Escape of Convicts.
12449. Prison Extended Over Places of Labor.
12450. Moneys Received for Prison Labor.
12451. Inspection of Books and Papers.
12452. United States Convicts, Expense of.
12453. Rules and Regulations of Prison.
12454. Penalty for Violation of Rules.
12455. Commutation of Sentence Upon Good Behavior.
12456. Good Behavior Allowance for Convicts in Certain Employment.
12457. Forfeiture of Commutation.
12458. Discharged Convict Entitled to Suit of Clothes and Money.
12459. County Jails May Be Made Prisons.
12460. Bond of Warden.
12461. Insane Convicts.
12462. Reports of Warden and Board.
12463. State Prison Fund.
12464. Compensation of Sheriffs.
12465. Duties of Board—Clerk.

12434. Board of state prison commissioners. The board of state prison commissioners consists of the governor, the secretary of state, and attorney-general, and has such supervision of all matters connected with the state prison as is provided for in this chapter.

History: En. Sec. 2950, Pen. C. 1895;
re-en. Sec. 9716, Rev. C. 1907.

Note.—See California Penal Code, sections 1572 to 1596, for sections corresponding to this chapter.

Cited or applied as section 9716, Revised Codes, in *Stephens v. Conley*, 48 Mont. 352, 365, 138 Pac. 189, Ann. Cas. 1915D, 958.

For text treatment of "Prisons and Prisoners," see Cal. Jur. and 21 R. C. L. 1165.

12435. Board has control of grounds, etc. The board of state prison commissioners has full control of the state prison grounds, buildings, prison labor and prison property; has power to purchase or cause to be purchased, all needed commissary supplies, all raw material and tools necessary for any manufacturing purposes carried on at said prison; and to sell all manufactured articles, and collect the money for the same. The board has power to make all needful rules and regulations in regard to the management of the prison, the discipline of the convicts and the conduct and compensation of the guards and assistants.

History: En. Sec. 2951, Pen. C. 1895; re-en. Sec. 9717, Rev. C. 1907.

12436. Officers of board. The governor is the president, and the secretary of state the secretary of the board; and any two thereof are a quorum, with full power to transact any business than may be required of such board.

History: En. Sec. 2952, Pen. C. 1895; re-en. Sec. 9718, Rev. C. 1907.

12437. Duty of secretary. It is the duty of the secretary to keep, or cause to be kept, a full and complete account in a book or books to be kept for that purpose, of all the transactions and proceedings of the board.

History: En. Sec. 2953, Pen. C. 1895; re-en. Sec. 9719, Rev. C. 1907.

12438. Warden—Appointment, salary, and removal. A warden of the state prison shall be appointed by the governor, and such appointment must be transmitted to and approved by the senate. The tenure of office of the appointee shall be for a period of four years from the date of appointment and until his successor has been appointed and qualified. The salary of the warden is hereby fixed at the sum of four thousand dollars per year, payable in monthly instalments of three hundred thirty-three and 33-100 dollars each, at the end of each and every month. The warden shall be subject to removal by the state board of prison commissioners at any time for misfeasance, nonfeasance, or malfeasance in office, but before he is so removed formal charges in writing must be preferred and the warden given opportunity to appear and defend himself against any such charges. When charges shall have been preferred, asking the removal of the warden, notice of the time and place of hearing of said charges shall be served upon him at least five days prior to the day set for the hearing; provided, however, that when such charges have been preferred, the state board of prison commissioners shall have the power and authority to suspend the warden until after the determination of the charges preferred against him.

History: En. Sec. 2954, Pen. C. 1895; re-en. Sec. 9720, Rev. C. 1907; amd. Sec. 1, Ch. 11, L. 1913.

a public officer. *State ex rel. Stephens v. District Court*, 43 Mont. 571, 577, 118 Pac. 268, Ann. Cas. 1912C, 343; *Stephens v. Conley*, 48 Mont. 352, 363, 138 Pac. 189, Ann. Cas. 1915D, 938.

The warden of the state penitentiary is

12439. Duties of warden. The warden has power to appoint and remove all necessary guards and assistants, in and about the prison, subject to the approval of the board as to the number appointed.

History: En. Sec. 2955, Pen. C. 1895; re-en. Sec. 9721, Rev. C. 1907. Cal. Pen. C. Sec. 1578.

12440. Same. The warden has the general superintendence of prison discipline and prison labor; must keep, or cause to be kept, a book wherein shall be recorded the name, age, sex, occupation, place of birth, where sent from, the crime charged, date of incarceration, and the expiration of the term for which the prisoners therein confined were sentenced, and shall make out a correct monthly report of the same, and file such report with the secretary of the board; and shall securely and carefully file in his office all commitments of prisoners that may be sent to the state prison, and keep, or cause to be kept, a correct account, and certify any mileage that may be due to any sheriff or deputy sheriff for conveying prisoners to the state prison.

History: En. Sec. 2956, Pen. C. 1895; re-en. Sec. 9722, Rev. C. 1907. Cal. Pen. C. Sec. 1578.

12441. Hours of labor for prison guards. A period of eight hours in each period of twenty-four consecutive hours shall constitute a day's work for all prison guards employed in and about the state prison; except in cases of insurrection, revolt, or escape of the prisoners confined therein, or of other emergencies endangering health, life, or property.

History: En. Sec. 1, Ch. 195, L. 1907; Sec. 9723, Rev. C. 1907.

12442. Penalty for violation of act. Every officer, warden, or contractor for the care and maintenance of the convicts of the state prison, who has charge of or employs the prison guards for such state prison, who violates any of the provisions of the preceding section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment.

History: En. Sec. 2, Ch. 195, L. 1907; Sec. 9724, Rev. C. 1907.

12443. Residence of warden, monthly estimate. The warden must reside at the state prison, and within five days before the expiration of each month must make out a complete statement of the probable or estimated amount of clothing, provisions, medicines, and all other stores and necessities, and the character and quality of the same, and make a requisition upon the board; and it must, as soon thereafter as possible, furnish, or cause to be furnished, the articles, stores, or provisions thus required, or so much thereof as it may deem necessary for the use of the prison during the ensuing month; but no supplies must be purchased or articles furnished the prison at a greater price than the usual market rates for such articles; and the board is not prevented from furnishing any necessary article at any time not enumerated in the monthly requisition of the warden, or from purchasing or contracting for a greater than a monthly supply of any article used in said prison, when deemed for the best interest of the state.

History: En. Sec. 2957, Pen. C. 1895; re-en. Sec. 9725, Rev. C. 1907.

12444. Accounts to be certified by warden. All accounts for provisions, clothing, medicines, fuel, lights, or other supplies or stores furnished to the state prison, as prescribed in the preceding section, must be presented to the warden, and if the articles therein enumerated have been

received, he must so certify, and the accounts so certified must be delivered to the secretary of the board, and if the account be correct, and the articles named therein were purchased or ordered by the board, it must audit and allow the claim. All claims for salaries, repairs, buildings, or labor must be certified to by the warden, presented, allowed, and paid as other indebtedness against the state prison.

History: En. Sec. 2958, Pen. C. 1895; re-en. Sec. 9726, Rev. C. 1907.

12445. Sealed proposals for supplies. The board may, whenever in its judgment it would be for the best interest of the state, advertise for sealed proposals for the furnishing of supplies to the state prison. Notice of the time and place of the letting of each contract must be given for at least two consecutive weeks in some newspaper published within this state. Such notice must state the character, quality, and quantity of the supplies required, and any person may bid for the furnishing of all or any part of the articles enumerated in the notice; but no contract must be made for furnishing more than one year's supplies, as estimated by the warden.

History: En. Sec. 2959, Pen. C. 1895; re-en. Sec. 9727, Rev. C. 1907.

12446. Labor of convicts. The board may, in its discretion, cause the prisoners, or any number of them, to be employed in any mechanical pursuits, and at hard labor, and furnish any convicts thus employed with any material that may be deemed necessary, in the same manner as is provided for the furnishing of supplies and stores to the state prison, and the board shall, in all respects, have the exclusive control of the employment of the convicts, and may from time to time employ them in such manner as, in its opinion, will best subserve the interest of the state and the welfare of the prisoners. But neither the board nor the warden must let by contract to any person the labor of any convict in the prison.

History: En. Sec. 2960, Pen. C. 1895; re-en. Sec. 9728, Rev. C. 1907.

12447. Employment of convicts. If, at any time, the board is of the opinion that it would be to the interest of the state to employ any portion of the prisoners, either within or without the walls or enclosures of the state prison, either in improvement of the public grounds or buildings or otherwise where they may be profitably employed, it has power to so employ such labor; it must, in such case, direct the warden accordingly in writing, and cause a record of such order to be entered at length on the records of the board.

History: En. Sec. 2961, Pen. C. 1895; re-en. Sec. 9729, Rev. C. 1907.

12448. Escape of convicts. The warden and officers of the prison shall incur no forfeiture for the escape of any convict employed without the walls or inclosures of the prison by order of the board, or going to or returning from such employment, unless such escape should arise from neglect or violation of law, or the rules, regulations, or by-laws of the board.

History: En. Sec. 2962, Pen. C. 1895; re-en. Sec. 9730, Rev. C. 1907.

12449. Prison extended over places of labor. The state prison is hereby declared to extend to and over any place or places of employment

of the convicts without the walls or inclosures of the prison, at which convicts may be employed.

History: En. Sec. 2963, Pen. C. 1895; re-en. Sec. 9731, Rev. C. 1907.

12450. Moneys received for prison labor. All sums that are now or may hereafter become due to the state for any manufactured article sold, or for labor performed, either within or without the prison walls or inclosures, must be certified to by the warden under oath to the board, who must receive and receipt for the same; and all moneys thus received must be paid into the state treasury, and the treasurer must place the same to the credit of the state prison fund; and the secretary of said board must make a report thereof to the state auditor, on or before the tenth day of each month.

History: En. Sec. 2964, Pen. C. 1895; re-en. Sec. 9732, Rev. C. 1907.

12451. Inspection of books and papers. All books or papers kept by or under the direction of the secretary of the board and the warden of the state prison, must, at all times on legal days, be open to the inspection of the members of the board, all state officers, members of the legislative assembly, and the sheriffs of the several counties of this state; and shall, at the expiration of their term of office, be delivered over to their successors.

History: En. Sec. 2965, Pen. C. 1895; re-en. Sec. 9733, Rev. C. 1907.

12452. United States convicts, expenses of. The board and the warden of the state prison are hereby required to receive all criminals sentenced to the state prison by the authorities of the United States, and to keep them at hard labor or in solitary confinement, agreeable to the order of the court pronouncing such sentence, until legally discharged therefrom; and the warden must certify to the board the expense of keeping all convicts thus sentenced, and the said board must certify the same to the state auditor.

History: En. Sec. 2966, Pen. C. 1895; re-en. Sec. 9734, Rev. C. 1907.

12453. Rules and regulations of prison. The board must, from time to time, cause to be placed in some conspicuous place or places about the prison, so much of the laws of the state, and the rules, regulations, and by-laws of the state prison as relates to the intercourse between visitors to the prison and the prisoners therein confined.

History: En. Sec. 2967, Pen. C. 1895; re-en. Sec. 9735, Rev. C. 1907.

12454. Penalty for violation of rules. Any person who violates any of the rules, regulations, or by-laws of the prison, as adopted and published by the board, must be subject to such penalties as may be prescribed by the board, and proceeded against in such manner as may be prescribed by law and the rules of the board. No barbarous punishments, by whipping, showering, or otherwise, must be prescribed by the board; nor shall convicts, as punishment, be deprived of the regular rations of food, and at the same time compelled to work the usual number of hours per day.

History: En. Sec. 2968, Pen. C. 1895; re-en. Sec. 9736, Rev. C. 1907.

12455. Commutation of sentence upon good behavior. The board is hereby authorized and required to grant to any convict confined in the state prison, who shall well behave himself and who shall perform regular labor during good health, either within or without the state prison inclosures, a credit of the time from his sentence as appears in the following table, for respective years of his sentence, and pro rata for any part of a year when the sentence is for more or less than a year:

NUMBER OF YEARS OF SENTENCE.	GOOD TIME GRANTED.	TOTAL GOOD TIME MADE.	TIME TO BE SERVED IF FULL TIME IS MADE.
1st year.....	1 month.....	1 month.....	11 months
2d year.....	2 months.....	3 months.....	1 year and 9 months
3d year.....	3 months.....	6 months.....	2 years and 6 months
4th year.....	4 months.....	10 months.....	3 years and 2 months
5th year.....	5 months.....	1 year and 3 months.....	3 years and 9 months
6th year.....	6 months.....	1 year and 9 months.....	4 years and 3 months
7th year.....	6 months.....	2 years and 3 months.....	4 years and 9 months
8th year.....	6 months.....	2 years and 9 months.....	5 years and 3 months
9th year.....	6 months.....	3 years and 3 months.....	5 years and 9 months
10th year.....	6 months.....	3 years and 9 months.....	6 years and 3 months
11th year.....	6 months.....	4 years and 3 months.....	6 years and 9 months
12th year.....	6 months.....	4 years and 9 months.....	7 years and 3 months
13th year.....	6 months.....	5 years and 3 months.....	7 years and 9 months
14th year.....	6 months.....	5 years and 9 months.....	8 years and 3 months
15th year.....	6 months.....	6 years and 3 months.....	8 years and 9 months
16th year.....	6 months.....	6 years and 9 months.....	9 years and 3 months
17th year.....	6 months.....	7 years and 3 months.....	9 years and 9 months
18th year.....	6 months.....	7 years and 9 months.....	10 years and 3 months
19th year.....	6 months.....	8 years and 3 months.....	10 years and 9 months
20th year.....	6 months.....	8 years and 9 months.....	11 years and 3 months
21st year.....	6 months.....	9 years and 3 months.....	11 years and 9 months
22d year.....	6 months.....	9 years and 9 months.....	12 years and 3 months
23d year.....	6 months.....	10 years and 3 months.....	12 years and 9 months
24th year.....	6 months.....	10 years and 9 months.....	13 years and 3 months
25th year.....	6 months.....	11 years and 3 months.....	13 years and 9 months

History: En. Sec. 1, p. 398, L. 1877; re-en. Sec. 237, 5th Div. Rev. Stat. 1879; re-en. Sec. 308, 5th Div. Comp. Stat. 1887; amd. Sec. 2969, Pen. C. 1895; re-en. Sec. 9737, Rev. C. 1907. Cal. Pen. C. Sec. 1588.

To justify an ex-convict in bringing an action for false imprisonment against the warden of the state prison because of the failure of defendant to deduct from the sentence imposed upon him by the judgment of imprisonment the good-time allowance provided for by this section, he must

be able to show that the board of prison commissioners had granted him such commutation but that defendant had refused to deduct the credits allowed; otherwise the complaint fails to state a cause of action. *Stephens v. Conley*, 48 Mont. 352, 366, 138 Pac. 189, Ann. Cas. 1915D, 958.

¹¹ Constitutionality of statute conferring power on board to commute sentences of criminals, see notes in 4 Ann. Cas. 1111; 20 Ann. Cas. 479; 34 L. R. A. 509.

12456. Good behavior allowance for convicts in certain employment. The state board of prison commissioners is hereby authorized and required to adopt rules and regulations applicable solely to convicts employed upon public roads or other public works, whereby said convicts so employed may be granted additional good time allowance in addition to that now provided by the preceding section for good conduct, conditioned upon such convicts' good behavior and compliance with all rules and regulations which may be made by said board or superintendent or warden of the state prison, for the management and control of said prison and such convicts; provided, said rules may grant not to exceed in additional good time allowance of ten days per month, and further, provided, that an

attempted escape by the convict, or such violation of the rules and regulations so prescribed, as in the judgment of the said board should be punished by forfeiture of such extra good time, shall operate as forfeiture of all extra good time as may have been allowed by said board of prison commissioners, now authorized in this act.

History: En. Sec. 1, Ch. 60, L. 1917.

12457. Forfeiture of commutation. Any such convict who commits an assault upon his keeper, any guard, officer, or convict, or otherwise endangers life, or by any flagrant disregard of the rules of the prison, or any misdemeanor whatever forfeits all deductions of time earned by him for good conduct before the commission of such offense; such forfeiture, however, must only be made by the board, after due proof of the offense, and notice to the offender; nor shall such forfeiture be imposed when a party has violated any rule or rules without violence or evil intent, of which the board must be the sole judges. The name of no convict who attempts to escape must be sent to the board for the commutation herein provided.

History: En. Sec. 2970, Pen. C. 1895; re-en. Sec. 9738, Rev. C. 1907.

In order to carry out the provisions of sections 12434, 12455, and of this section, which seems to indicate a course of procedure for the board of prison commis-

sioners, the board must investigate the record of every convict, probably at the end of every year of his service, and grant the proper credits, if earned. *Stephens v. Conley*, 48 Mont. 352, 366, 138 Pac. 189, Ann. Cas. 1915D, 958.

12458. Discharged convict entitled to suit of clothes and money. Whenever any convict is discharged from imprisonment, the warden must provide him with proper and sufficient clothing, at a cost not exceeding twenty-five dollars, and must pay him in addition five dollars in money.

History: En. Sec. 2971, Pen. C. 1895; re-en. Sec. 9739, Rev. C. 1907.

12459. County jails may be made prisons. Whenever the state prison is insufficient to contain the prisoners sentenced to confinement therein, the board must enter into contracts with the commissioners of such counties as have jails suitable for keeping convicts, that may thereafter be sentenced to confinement in the state prison, and must notify the district judges that such jails have been procured for state prison purposes, and such judges, until further notified, must sentence any prisoner convicted of a felony to one of the jails so designated.

History: En. Sec. 2972, Pen. C. 1895; re-en. Sec. 9740, Rev. C. 1907.

12460. Bond of warden. The warden, before entering upon the discharge of his duties, shall execute a bond in such sum as the board designates, not exceeding twenty thousand dollars, for the faithful discharge of his duties, which bond shall be given to the state, approved by the state treasurer, and filed with the secretary of state.

History: En. Sec. 2973, Pen. C. 1895; re-en. Sec. 9741, Rev. C. 1907.

12461. Insane convicts. When the warden is of opinion that any prisoner is insane, he must certify the fact under oath to the board, which may, in its discretion, order the removal of such prisoner to the insane asylum. As soon as the authorities of the asylum ascertain that such person is not insane, they must immediately notify the board of that fact,

and thereupon the warden must cause such prisoner to be at once returned to the prison, if his term of imprisonment has not expired.

History: En. Sec. 2974, Pen. C. 1895; re-en. Sec. 9742, Rev. C. 1907.

12462. Reports of warden and board. The warden must, on or before the first Monday of November of each year, make a detailed report to the board for the year ending on the last day of the preceding month, stating therein the names of the guards and assistants, and other officers, with their salaries, the number of convicts, showing the name of each convict, his age and general appearance, when and where convicted, and of what crime, term of sentence and when it expires, and the number received and discharged during the year, the amount of manufacture, and the money received from the same and the cost thereof, and a full statement of the condition, management, and concerns of the prison, and the board must make a like report to each legislative assembly.

History: En. Sec. 2975, Pen. C. 1895; re-en. Sec. 9743, Rev. C. 1907.

12463. State prison fund. The moneys appropriated by the legislative assembly and the proceeds of the labor of prisoners constitute the state prison fund. The moneys in the state prison fund are applicable to the payment of the expenses of the prison, and salaries. The expenses and salaries must be audited and allowed by the board of examiners; after which, upon the order of the board, the state auditor must draw his warrant on the treasurer therefor, and the treasurer must pay the same out of such fund. The board cannot contract any debts or incur any liability binding upon the state.

History: En. Sec. 2976, Pen. C. 1895; re-en. Sec. 9744, Rev. C. 1907.

12464. Compensation of sheriffs. Sheriffs delivering prisoners at the state prison must receive all actual expenses necessarily incurred in their transportation, the amount of the expenses in each case to be audited and allowed by the board of examiners, and paid out of any moneys in the state treasury appropriated for that purpose, and no further or other compensation must be received by sheriffs for such transportation or services.

History: En. Sec. 2977, Pen. C. 1895; re-en. Sec. 9745, Rev. C. 1907.

12465. Duties of board—Clerk. The board has the power to employ a clerk. It is the duty of the board, or the secretary thereof, to cause to be kept in a book or books to be kept for that purpose a full and complete account of all the transactions and proceedings of the board. The board shall also cause to be kept at the state prison a book wherein shall be recorded the name, nativity, age, height, weight, occupation, county convicted in, crime charged, term, date of sentence, date of incarceration, expiration of sentence without good time, expiration of sentence with full good time, of all prisoners therein confined, and shall cause to be kept in the office of the board such records as will enable the board or any member thereof to ascertain the name of every prisoner confined in the state prison, and such other facts as in the judgment of the board may be necessary in order to have before them a full and complete record of every prisoner confined, together with the cost of maintaining the same per month and

the expenses incurred in the erection and improvements of buildings upon the prison grounds.

History: En. Sec. 2980, Pen. C. 1895; re-en. Sec. 9748, Rev. C. 1907.

CHAPTER 2.

COUNTY JAILS.

- Section** 12466. A Jail Must Be Built in Each County.
 12467. Other Jails Authorized.
 12468. County Jails, By Whom Kept and for What Used.
 12469. Rooms Required in County Jails.
 12470. Prisoners to Be Classified.
 12471. Prisoners Must Be Actually Confined.
 12472. Sheriff to Receive Prisoners Committed by Courts.
 12473. Sheriff Answerable for Safe-keeping of Such Prisoners.
 12474. When Jail of a Contiguous County May Be Used.
 12475. Keeper of Jail in Contiguous County to Receive Prisoners.
 12476. When Jail in Contiguous County to Cease to Be Used.
 12477. Prisoners to Be Returned to Proper County.
 12478. Prisoners May Be Removed in Case of Fire.
 12479. Prisoners May Be Removed in Case of Pestilence.
 12480. Papers Served on Jailer for Prisoner.
 12481. Guard for Jail.
 12482. Sheriff to Receive all Persons Duly Committed.
 12483. Prisoners on Civil Process, When Not to Be Received.
 12484. Prisoners May Be Required to Labor.
 12485. Rules and Regulations for the Performance of Labor.
 12486. Authority of Commissioners.
 12487. Duty of Sheriff.

12466. A jail must be built in each county. There must be built or provided and kept in good repair in each county one common jail, at the expense of the county, at the county seat.

History: En. Sec. 3020, Pen. C. 1895; re-en. Sec. 9757, Rev. C. 1907.

Note.—Earlier acts relating to jails and prisoners were sections 1 to 11, pp. 402 to 404, Bannack Statutes; re-enacted and new sections added as sections 1 to 17, pp. 501

to 503, Codified Statutes 1871; re-enacted as sections 746 to 762, Fifth Division Revised Statutes 1879; re-enacted with slight amendments as sections 1267 to 1285, Fifth Division Compiled Statutes 1887.

12467. Other jails authorized. Whenever, in the discretion of the commissioners of the several counties, it is necessary or desirable to build a jail or lockup in any town other than the county seat, they are hereby authorized so to do, but no such jail or lockup must cost to exceed one thousand dollars.

History: En. Sec. 3021, Pen. C. 1895; re-en. Sec. 9758, Rev. C. 1907.

12468. County jails, by whom kept and for what used. The common jails in the several counties of this state are kept by the sheriffs of the counties in which they are respectively situated and are used as follows:

1. For the detention of persons committed in order to secure their attendance as witnesses in criminal cases.
2. For the detention of persons charged with crime and committed for trial.
3. For the confinement of persons committed for contempt, or upon civil process, or by other authority of law.

4. For the confinement of persons sentenced to imprisonment therein upon a conviction of crime.

History: En. Sec. 3022, Pen. C. 1895; re-en. Sec. 9759, Rev. C. 1907. Cal. Pen. C. Sec. 1597.

12469. Rooms required in county jails. Each county jail must contain a sufficient number of rooms to allow all persons belonging to either one of the following classes to be confined separately and distinctly from persons belonging to either of the other classes:

1. Persons committed on criminal process and detained for trial.
2. Persons already convicted of crime and held under sentence.
3. Persons detained as witnesses, or held under civil process, or under an order imposing punishment for a contempt.
4. Males separately from females.

History: En. Sec. 3023, Pen. C. 1895; re-en. Sec. 9760, Rev. C. 1907. Cal. Pen. C. Sec. 1598.

12470. Prisoners to be classified. Persons committed on criminal process and detained for trial, persons convicted and under sentence, and persons committed upon civil process must not be kept or put into the same room, nor shall male and female prisoners (except husband and wife) be kept or put into the same room.

History: En. Sec. 3024, Pen. C. 1895; re-en. Sec. 9761, Rev. C. 1907. Cal. Pen. C. Sec. 1599.

12471. Prisoners must be actually confined. A prisoner committed to the county jail for trial, or for examination, or upon conviction for a public offense, must be actually confined in the jail until he is legally discharged; and if he is permitted to go at large out of the jail, except by virtue of a legal order or process, it is an escape.

History: En. Sec. 3025, Pen. C. 1895; re-en. Sec. 9762, Rev. C. 1907. Cal. Pen. C. Sec. 1600.

12472. Sheriff to receive prisoners committed by courts. The sheriff must receive, and keep in the county jail, any prisoner committed thereto by process or order issued under the authority of the United States, until he is discharged according to law, as if he had been committed under process issued under the authority of this state; provision being made by the United States for the support of such prisoner.

History: En. Sec. 3026, Pen. C. 1895; re-en. Sec. 9763, Rev. C. 1907. Cal. Pen. C. Sec. 1601.

12473. Sheriff answerable for safe-keeping of such prisoners. A sheriff to whose custody a prisoner is committed, as provided in the last section, is answerable for his safe-keeping, in the courts of the United States, according to the laws thereof.

History: En. Sec. 3027, Pen. C. 1895; re-en. Sec. 9764, Rev. C. 1907. Cal. Pen. C. Sec. 1602.

12474. When jail of a contiguous county may be used. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the district judge may, by written appointment, filed with the clerk, designate the jail of a contiguous county for the

confinement of the prisoners of his county, or any of them, and may at any time modify or annul the appointment.

History: En. Sec. 3028, Pen. C. 1895; re-en. Sec. 9765, Rev. C. 1907. Cal. Pen. C. Sec. 1603.

12475. Keeper of jail in contiguous county to receive prisoners. A copy of the appointment, certified by the clerk, must be served on the sheriff or keeper of the jail designated, who must receive into his jail all prisoners authorized to be confined therein, pursuant to the last section, and who is responsible for the safe-keeping of the persons so committed, in the same manner and to the same extent as if he was sheriff of the county for whose use his jail is designated, and with respect to the persons so committed he is deemed the sheriff of the county from which they were removed.

History: En. Sec. 3029, Pen. C. 1895; re-en. Sec. 9766, Rev. C. 1907. Cal. Pen. C. Sec. 1604.

12476. When jail in contiguous county to cease to be used. When a jail is erected in the county for the use of which the designation was made, or its jail is rendered fit and safe for the confinement of prisoners, the district judge of that county must, by a written revocation, filed with the clerk, declare that the necessity for the designation has ceased, and that it is revoked.

History: En. Sec. 3030, Pen. C. 1895; re-en. Sec. 9767, Rev. C. 1907. Cal. Pen. C. Sec. 1605.

12477. Prisoners to be returned to proper county. The clerk must immediately serve a copy of the revocation upon the sheriff of the county, who must thereupon remove the prisoners to the jail from which the removal was had.

History: En. Sec. 3031, Pen. C. 1895; re-en. Sec. 9768, Rev. C. 1907. Cal. Pen. C. Sec. 1606.

12478. Prisoners may be removed in case of fire. When a county jail or building contiguous to it is on fire, and there is reason to believe that the prisoners may be injured or endangered, the sheriff or jailer must remove them to a safe and convenient place, and there confine them as long as it may be necessary to avoid the danger.

History: En. Sec. 3032, Pen. C. 1895; re-en. Sec. 9769, Rev. C. 1907. Cal. Pen. C. Sec. 1607.

12479. Prisoners may be removed in case of pestilence. When a pestilence or contagious disease breaks out in or near a jail, and the physician thereof certifies that it is likely to endanger the health of the prisoners, the district judge may, by a written appointment, designate a safe and convenient place in the county, or the jail in a contiguous county, as the place of their confinement. The appointment must be filed in the office of the clerk, and authorize the sheriff to remove the prisoners to the place or jail designated, and there confine them until they can be safely returned to the jail from which they were taken.

History: En. Sec. 3033, Pen. C. 1895; re-en. Sec. 9770, Rev. C. 1907. Cal. Pen. C. Sec. 1608.

12480. Papers served on jailer for prisoner. A sheriff or jailer upon whom a paper in a judicial proceeding, directed to a prisoner in his custody, is served, must forthwith deliver it to the prisoner, with a note thereon of the time of its service. For a neglect to do so he is liable to the prisoner for all damages occasioned thereby.

History: En. Sec. 3034, Pen. C. 1895; re-en. Sec. 9771, Rev. C. 1907. Cal. Pen. C. Sec. 1609.

12481. Guard for jail. The sheriff, when necessary, may, with the assent in writing of the district judge, employ a temporary guard for the protection of the county jail, or for the safe keeping of prisoners, the expenses of which are a county charge.

History: En. Sec. 3035, Pen. C. 1895; re-en. Sec. 9772, Rev. C. 1907. Cal. Pen. C. Sec. 1610.

12482. Sheriff to receive all persons duly committed. The sheriff must receive all persons committed to jail by competent authority, and provide them with necessary food, clothing, and bedding, for which he shall be allowed a reasonable compensation, to be determined by the board of county commissioners, and, except as provided in the next section, to be paid out of the county treasury.

History: En. Sec. 3036, Pen. C. 1895; re-en. Sec. 9773, Rev. C. 1907. Cal. Pen. C. Sec. 1611.

Cited or applied as section 9773, Revised Codes, in *In re Mettler*, 50 Mont. 299, 305, 146 Pac. 747.

12483. Prisoners on civil process, when not to be received. Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff is not bound to receive such person, unless security is given on the part of the party at whose instance the process is issued, by a deposit of money, to meet the expenses for him of necessary food, clothing, and bedding, or to detain such person any longer than these expenses are provided for. This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court.

History: En. Sec. 3037, Pen. C. 1895; re-en. Sec. 9774, Rev. C. 1907. Cal. Pen. C. Sec. 1612.

12484. Prisoners may be required to labor. Persons confined in the county jail under a judgment of imprisonment rendered in a criminal action or proceeding may be required by the board of county commissioners to perform labor on the public works or ways in the county.

History: En. Sec. 3038, Pen. C. 1895; re-en. Sec. 9775, Rev. C. 1907. Cal. Pen. C. Sec. 1613.

12485. Rules and regulations for the performance of labor. The board of county commissioners making such order may prescribe and enforce the rules and regulations under which such labor is to be performed.

History: En. Sec. 3039, Pen. C. 1895; re-en. Sec. 9776, Rev. C. 1907. Cal. Pen. C. Sec. 1614.

12486. Authority of commissioners. The county commissioners have the care of building, inspecting, and repairing the jail, and must, once every three months, inquire into its state, as respects the security thereof,

and the treatment and condition of prisoners, and must take all necessary precaution against escape, sickness, or infection.

History: En. Sec. 3040, Pen. C. 1895; re-en. Sec. 9777, Rev. C. 1907.

12487. Duty of sheriff. The sheriff of each county must, on the first Monday in January, and every three months thereafter, return to the county commissioners a certified list of the names of all prisoners in his custody on the last day of the preceding month, with the time and cause of their confinement, the length of time for which they were committed, and the number received and discharged during the preceding three months, and in case he fails so to do, the said sheriff must not receive any compensation for the sustenance of the prisoners in his custody.

History: En. Sec. 3041, Pen. C. 1895; re-en. Sec. 9778, Rev. C. 1907.

CHAPTER 3.

MONTANA STATE INDUSTRIAL SCHOOL.

- | | |
|---------|--|
| Section | 12488. Reform School Located and Established. |
| | 12489. Designation of the Montana State Industrial School. |
| | 12490. Objects and Purpose of School—Powers of Board. |
| | 12491. Powers of Directors and Officers. |
| | 12492. State Industrial School Fund. |
| | 12493. Supervision and Control. |
| | 12494. Objects and Purposes—Commitment to School. |
| | 12495. Employment of President and Matron. |
| | 12496. Duties of President. |
| | 12497. Duties of Trustees. |
| | 12498. Departments of School. |
| | 12499. Branches to Be Taught. |
| | 12500. Rules. |
| | 12501. Report of President. |
| | 12502. Report of Board. |
| | 12503. Who May Be Committed—Form of Commitment. |
| | 12504. Expenses. |
| | 12505. Appeals. |
| | 12506. Duration of Sentence. |
| | 12507. Commutation of Sentence. |
| | 12508. Releases on Parole. |
| | 12509. Fugitives From School. |
| | 12510. Escapes—Connivance At—Penalty. |
| | 12511. Same. |
| | 12512. Reward for Arrest of Fugitive. |
| | 12513. Additional Buildings. |
| | 12514. State Reform School Building Fund. |
| | 12515. Expenses of Improvements—State Board of Examiners. |

12488. Reform school located and established. A reform school is hereby established to be located at or within three miles of the city of Miles City, in the county of Custer, to be known as the Montana state reform school.

History: En. Sec. 1, p. 183, L. 1893; For text treatment of "Houses of Correction," see Cal. Jur. and 13 R. C. L. 957.
re-en. Sec. 3062, Pen. C. 1895; re-en. Sec. 9779, Rev. C. 1907.

12489. Designation of the Montana state industrial school. From and after the passage and approval of this act, the name of the Montana state reform school shall be the Montana state industrial school.

History: En. Sec. 1, Ch. 136, L. 1915.

12490. Objects and purpose of school—Powers of board. The objects and purposes of the Montana state reform school, as now provided by law, shall be and they are hereby made the objects and purposes of the Montana state industrial school. And the board of trustees of the Montana state reform school shall have and they are hereby vested with the same powers, duties, and obligations as a board of trustees of the Montana state industrial school as is now vested in them as the board of trustees of the Montana state reform school.

History: En. Sec. 2, Ch. 136, L. 1915.

12491. Powers of directors and officers. The director and all other officers and employees of the Montana state reform school shall be and they are hereby vested with all the powers, duties, and obligations as such director, officers, and employees of the Montana state industrial school as they now have as director, officers, and employees of the Montana state reform school. And all existing statutes or other provisions of law relating to the Montana state reform school are hereby made applicable to the Montana state industrial school.

History: En. Sec. 3, Ch. 136, L. 1915.

12492. State industrial school fund. The fund created by the provisions of section 12514 of this code shall hereafter be known as "the state industrial school fund."

History: En. Sec. 4, Ch. 136, L. 1915.

12493. Supervision and control. The general supervision and control of the Montana state industrial school is vested in the state board of education and a local executive board, as provided in sections 836 and 842 of the Political Code.

Note.—New section recommended by code commissioner.

12494. Objects and purposes—Commitment to school. Said school shall be for the keeping and reformatory training of all youths between the ages of eight and twenty-one years who are residents of the state of Montana and who have been regularly committed to said school by a duly authorized court. Such youths shall be presented to the presiding officer of said school by an accompanying officer, parent, or guardian, who shall likewise exhibit a certificate of commitment from the court ordering same.

History: En. Sec. 3063, Pen. C. 1895; re-en. Sec. 9780, Rev. C. 1907; amd. Sec. 1. Ch. 42, L. 1921.

12495. Employment of president and matron. The state board of education shall employ a president and matron of the Montana state industrial school. It shall be the duty of said president to take charge of the school, and he shall also have immediate control of the male department of said school, and the matron shall have immediate control of the female department of the school; and the local executive board shall also appoint such other officers and teachers as may be necessary for the management of the school.

History: En. March 1, 1893; Sec. 3074, Pen. C. 1895; re-en. Sec. 9791, Rev. C. 1907; amd. Sec. 1, Ch. 61, L. 1921.

12496. Duties of president. The president shall be present at all meetings of the local executive board after his appointment and qualifica-

tion and shall there confer with the state board of education regarding the management and interests of the school, and shall have entire supervision of the school, subject, however, to the control of said board, and shall hold his office during the pleasure of the said state board of education.

History: En. Sec. 15, p. 186, L. 1893; re-en. Sec. 3077, Pen. C. 1895; re-en. Sec. 9794, Rev. C. 1907; amd. Sec. 1, Ch. 43, L. 1921.

12497. Duties of trustees. It shall be the duty of the board of trustees to investigate any and all complaints made against the director, matron, or other employee of said reform school, and for good and sufficient reason may remove the person against whom such complaint shall have been made. The board shall further investigate any and all charges made by the president against any inmate or inmates of the school, and if, after the investigation of such charges, any inmate or inmates of such school shall be found incorrigible, unmanageable, or detrimental to the best interest of the school, such inmate or inmates, as the case may be, may be returned to the court which made the commitment. The board, upon ordering the return of any inmate or inmates to the court which made the commitment or commitments, shall immediately forward to the judge of the district court a certificate setting forth the proceedings of the board in investigating such charges, and setting forth fully their reasons for so returning such inmate or inmates to the said judge or court. The court or judge to whom such inmate or inmates of such school may be returned may thereupon take such proceedings as the judge thereof may deem advisable, and may impose such penalty as provided by law for the offense for which such boy or girl had been committed to the reform school; provided, that the time such boy or girl has been in the reform school under such commitment shall not be considered in imposing such penalty; and provided further, that such boy or girl shall not be by the court or judge thereof returned to the reform school.

Any complaint made against the president or other employee of said school, or made by the president against any inmate of said school, shall be in writing, duly verified, setting forth specifically the acts complained of, and addressed to the board of trustees of the state reform school. Upon receiving such complaint, the board shall thereupon fix a time and place for the investigation of the charges set forth therein. Upon such hearing, the board shall proceed to take the testimony of the complainant and of such other witnesses as he or she may produce, and may subpoena witnesses, so as to make a full and thorough examination as to the merits of such complaint. The member of the board of trustees acting as presiding officer at such investigation shall have power and is hereby authorized to administer oaths to any and all persons produced as witnesses upon such hearing.

A record shall be kept of all such investigations, and the testimony reduced to writing and filed with the secretary upon such hearing.

History: Ap. p. Sec. 16, p. 186, L. 1893; en. Sec. 3078, Pen. C. 1895; re-en. Sec. 9795, Rev. C. 1907.

Note.—See section 12493.

12498. Departments of school. Said reform school shall consist of two departments, one for the male and one for the female inmates, and the

two departments shall be entirely separated. The matron shall be directly accountable to the director for the management of the female department of the school.

History: Sec. 9796, Rev. C. 1907.

1893; re-enacted as sections 3079 to 3084,

Note.—Sections 12498 to 12503 were enacted as sections 17 to 22, p. 187, Laws of

Penal Code 1895; re-enacted as sections 9796 to 9801, Revised Codes 1907.

12499. Branches to be taught. All the branches taught in the public schools of the state shall be taught in the reform school, and the inmates shall be taught and trained in morality, temperance, and frugality, and they shall also be instructed in the different trades and callings of the two sexes as far as possible in the scope of the institution.

History: Sec. 9797, Rev. C. 1907.

12500. Rules. The board of trustees shall have power and authority under the direction and subject to the approval of the state board of prison commissioners to regulate the workings of the school, and from time to time, as may be necessary, to erect additional buildings, make all needful improvements, purchase machinery, and tools, and implements to be used in any of the trades taught in said school, and have general supervision and control of the institution, and may make such rules for its management and control as may be necessary; provided, that no rule made by said board shall be in conflict with the provisions of the constitution or laws of the state; and provided further, that such buildings and improvements shall not exceed in cost the sums appropriated for such purposes.

History: Sec. 9798, Rev. C. 1907.

Note.—See section 12493.

12501. Report of president. The president shall at the close of each year make a full and complete report to the board of the advancement, number and standing of the inmates of the school, as well as the number received and the number discharged during the year, and he shall give such further information as the board may require.

History: Sec. 9799, Rev. C. 1907.

12502. Report of board. The board shall make a biennial report to the governor. Said report to contain a complete list of the officers and employees connected with the school, the number of inmates (male and female), the number admitted and the number dismissed during the period covered by the reports, an account of all expenditures incurred, and for what purpose, and as nearly as possible the advancement made by the inmates. They shall also show the needs of the school as far as buildings and improvements are concerned, and may recommend the passage of any laws they may deem necessary for the benefit of the school.

History: Sec. 9800, Rev. C. 1907.

12503. Who may be committed—Form of commitment. No boy or girl shall be committed to said school who is not of sound intellect, free from cutaneous or other contagious disease, or who is subject to epileptic

or other fits, and he or she must be possessed of that degree of bodily health which would render him or her a fit subject for the discipline of such school.

And it shall be the duty of the court or judge committing any such boy or girl, to cause him or her to be examined by a reputable licensed physician, who shall certify to the above facts, which certificate shall be forwarded to said reform school with the commitment.

The commitment may be in the following form:

ORDER OF COMMITMENT.

State of Montana, County of, ss.

In the district court, in and for the judicial district, in and for said county and state.

Be it remembered, that on the day of, 19..., a minor of said county was charged, on complaint of, brought before me, the undersigned judge of said court, and upon due proof I do find that the said is a suitable person to be committed to the instruction and discipline of the state industrial school.

Now, therefore, it is hereby ordered that the said be and is hereby committed to said Montana state industrial school until attains the age of twenty-one years or until is legally discharged by the proper authorities of said school.

And I find, upon the hearing of said matter, that the said was charged with, that is a resident of said county, and of the age of years.

That father's name is; he resides at, in the state of, by occupation a That mother's name is, a resident of the state of, by occupation a The names of other near relatives and their residence are as follows:

Witness my hand this day of, A. D. 19...
....., Judge.

State of Montana, County of, ss.

I,, clerk of the district court of said county, do hereby certify that the Honorable, whose signature is appended to the foregoing order of commitment, was at the date thereof and now is the judge of the district court in and for said county.

In witness whereof I have hereunto set my hand and affixed the seal of said court this day of, A. D. 19...

(Seal), Clerk.

The certificate of health may be in the following form:

State of Montana, County of, ss.

....., being first duly sworn, deposes and says: That he is a practicing physician, duly licensed to practice medicine and surgery in the state of Montana; that at the request of the Honorable, judge of the district court in and for said county, he made a careful examination of, and as a result of said examination, he makes answer to the following questions correctly, to the best of his knowledge, judgment, and belief:

Has a perfect vision?

Ans.....

Is of sound intellect?

Ans.....

Has sufficient bodily strength to receive instruction?

Ans.....

Has any tendency to scrofula or consumption?

Ans.....

Is perfectly free from any cutaneous disorder?

Ans.....

Is subject to epileptic or other fits?

Ans.....

Has had the smallpox?

Ans.....

Has been vaccinated?

Ans.....

Is of sufficiently sound mind and bodily health to be a proper person to commit to the state industrial school?

Ans.....

Subscribed and sworn to before me this day of, 19....

....., Clerk.

State of Montana, County of, ss.

I,, clerk of the district court of said county, do hereby certify that, whose signature is appended to the foregoing certificate, is a reputable and respectable physician and surgeon in said county.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, this day of, 19....

(Seal)

....., Clerk.

History: En. March 14, 1895; Sec. 3088, Pen. C. 1895; re-en. Sec. 9805, Rev. C. 1907; amd. Sec. 1, Ch. 62, L. 1921.

12504. Expenses. The judge shall certify in the warrant the place where the boy or girl resided at the time of his or her arrest; also his or her age, as nearly as can be ascertained, and command such officer to take such boy or girl and deliver him or her without delay to the director of said school, or other person in charge thereof, at the place where the same is located, and the showing of such certificate for the purposes of this act shall be conclusive evidence of his or her residence or age; accompanying this warrant the judge shall transmit by the officer executing it, a statement of the nature of the complaint to the president, together with such other particulars concerning the boy or girl as the judge is able to ascertain; provided, that the expense of committing such boy or girl to the said state reform school, of the returning of him or her to his or her parent or guardian after his or her release therefrom, shall be at the expense of the county from which such boy or girl is committed.

History: En. Sec. 3089, Pen. C. 1895; re-en. Sec. 9806, Rev. C. 1907.

12505. Appeals. The judge of any district court of any county in the state may, either in chambers or in term time, proceed under the pro-

visions of this act; provided, that any proceedings had before the judge in chambers in any county at a time when the district court of said county is not in session, shall be entered and recorded in the minutes of said court on the first day of the next ensuing term. Any and all proceedings before the district court, or judge thereof, may be reviewed on writ of error by the supreme court, and in the manner provided by law for reviewing criminal cases in said supreme court.

History: En. Sec. 3090, Pen. C. 1895; re-en. Sec. 9807, Rev. C. 1907.

12506. Duration of sentence. Each boy or girl committed to the state reform school shall remain there until he or she arrives at the age of twenty-one years, unless paroled, or legally discharged; provided, that it shall be lawful for the board of trustees upon the recommendation of the director of said school to discharge therefrom any girl, an inmate thereof, who has arrived at the age of eighteen years, if it be made to appear that while there as an inmate she deported and conducted herself in such a manner as to make it reasonably probable that she has reformed and is a proper person to be discharged.

History: En. Sec. 3091, Pen. C. 1895; re-en. Sec. 9808, Rev. C. 1907.

12507. Commutation of sentence. Whenever any boy or girl under the age of eighteen years has been sentenced by any court of competent jurisdiction to imprisonment in the state's prison, it shall be lawful for the governor, by and with the approval of the board of pardons, upon the application of such boy, his parent or guardian, to commute the punishment by substituting therefor the commitment of such boy to the Montana state reform school, during the minority of such boy, unless sooner discharged by the board of trustees, under the regulations as herein provided. But should such boy, after being sent to such reform school, persist in a depraved course, or escape therefrom, it shall be in the power of the governor, by and with the approval of the board of pardons, to revoke such commutation, and remand him to the state's prison to serve out his unexpired term, and the time so spent by him at the reform school, or while a refugee therefrom, shall not be considered as a part of his original term of commitment.

History: En. Sec. 3092, Pen. C. 1895; re-en. Sec. 9809, Rev. C. 1907.

12508. Releases on parole. The board of trustees may at any time, if a boy or girl has been in the Montana state industrial school for a period of one year, discharge or release such boy or girl on trial or parole, but in all cases where a boy or girl is released on trial or parole, he or she must, at stated intervals, report on his or her conduct to the president, and present certificates of good behavior; whereupon his or her leave may be extended, or the said board of trustees by unanimous vote may grant him or her a full and unconditional pardon and order him or her finally released. It shall be the duty of the president to recall any boy or girl who might not be conducting himself or herself properly, or any boy or girl who may not have a suitable home.

History: En. Sec. 3093, Pen. C. 1895; re-en. Sec. 9810, Rev. C. 1907; amd. Sec. 1, Ch. 57, L. 1917.

Note.—See section 12493.

12509. Fugitives from school. Any fugitive from said institution may be arrested and returned to said institution by any officer or citizen.

History: En. Sec. 3094, Pen. C. 1895; re-en. Sec. 9811, Rev. C. 1907.

12510. Escapes—Connivance at—Penalty. If any officer or employee of the Montana state industrial school, or any other person, shall contrive, procure, and connive at, or otherwise voluntarily suffer the escape of any inmate of said school, whether actually confined or released on trial or parole, or who after full knowledge that an inmate thereof has escaped therefrom, or being on trial or parole has broken the same, conceal it from the officers of said institution or from any sheriff, constable, marshal, or policeman in this state seeking the whereabouts of said escaped inmate or parole violator, or who harbors, conceals, or protects any such escaped person or parole violator, every such person on conviction shall be punished by imprisonment in the state's prison for a period of not less than six months, nor more than two years, and be fined in the sum of not exceeding one thousand dollars.

History: En. Sec. 3095, Pen. C. 1895; re-en. Sec. 9812, Rev. C. 1907.

12511. Same. If any person shall carry to any inmate of said school or into said school any tool, weapon, or other aid with intent to enable any inmate thereof to escape from custody or confinement, whether such escape be effected or not, any person so offending, on conviction thereof, shall be punished by a fine not more than five hundred dollars, or imprisonment in the state's prison for a period of not more than two years, or both such fine and imprisonment.

History: En. Sec. 3096, Pen. C. 1895; re-en. Sec. 9813, Rev. C. 1907.

12512. Reward for arrest of fugitive. If any person who has been committed to the state reform school shall escape therefrom, the governor or acting governor is authorized to offer a reward for his or her apprehension, which reward shall not exceed the sum of one hundred dollars, and shall be paid out of the state treasury, and the amount which any governor or acting governor of this state may offer as the reward for the apprehension of any inmate, as aforesaid, is hereby appropriated, and it is hereby made the duty of the state auditor to issue to the person or persons who he may determine is entitled to such a reward a warrant on the state treasury therefor.

History: En. Sec. 3097, Pen. C. 1895; re-en. Sec. 9814, Rev. C. 1907.

12513. Additional buildings. Whenever, in the judgment of the board of trustees of the state reform school, they may deem it necessary to erect additional buildings or make needed improvements and repairs upon buildings already erected, such board, under the direction and subject to the approval of the board of state prison commissioners, may cause such buildings to be erected and improvements made in accordance with the general provisions of an act entitled, "An act to provide for the establishment and location of a state reform school and to appropriate money therefor," approved March 1, 1893, and the expenses therefor shall be audited and allowed in the mode and manner provided by law, and paid out of the state reform school building fund; provided, however, that the

cost of such buildings and improvements shall not exceed thirty thousand dollars for the years 1895 and 1896; provided, further, that thereafter the expenses for erecting additional buildings and making the needed improvements thereon shall not exceed the amount of money to the credit of such fund for any one given year.

History: En. Sec. 3098, Pen. C. 1895; re-en. Sec. 9815, Rev. C. 1907.

12514. State reform school building fund. In order to carry into effect the provisions of an act entitled "An act to provide for the establishment and location of a state reform school and to appropriate moneys therefor," approved March 1, 1893, and as well all acts amendatory thereof and supplemental thereto, there is hereby created a fund which shall be known as "the state reform school building fund," into which shall be covered the proceeds of all moneys derived from the sale of timber and from the sale or lease of such lands as have been or may be granted to the state of Montana for the state reform school.

Related section: 12492.

History: En. Sec. 3099, Pen. C. 1895; re-en. Sec. 9816, Rev. C. 1907.

12515. Expenses of improvements—State board of examiners. Whenever buildings are erected at the state reform school, or needed improvements are made upon buildings already erected, the accounts and expenses for the same shall be certified to the state board of examiners, and when approved, warrants shall be drawn therefor by the state auditor upon the fund designated in this act. If there are no moneys in said fund to pay such warrants, the same shall be registered by the state treasurer, and shall draw interest at the rate of seven per cent. per annum, and shall be a lien upon any and all moneys that may hereafter be covered into such fund in the order in which they are registered. Whenever there are moneys in said fund to pay such warrants, they shall be called for payment from time to time in the mode and manner now provided by law for the payment of similar warrants. Provided, that no warrants authorized by this act shall be either sold or paid out on account of labor, materials, or on contract at less than their face value; and provided further, that the state of Montana shall not in any case be held liable for the redemption of such warrants nor the payment of the interest thereon.

History: En. Sec. 3100, Pen. C. 1895; re-en. Sec. 9817, Rev. C. 1907.

CHAPTER 4.

STATE PAROLE COMMISSIONER.

- Section 12516. Parole Commissioner, Appointment and Term.
12517. Duties of Commissioner.
12518. Salary of Commissioner.

12516. Parole commissioner, appointment and term. There is hereby created the office of state parole commissioner, which office shall be filled by a suitably qualified person to be appointed by the governor. Said commissioner shall hold office for the period of four years, but shall be subject to removal by the governor at any time for cause.

History: En. Sec. 1, Ch. 13, L. 1913.

12517. Duties of commissioner. It shall be the duty of said commissioner to co-operate with the warden of the state penitentiary, and the superintendent of the state reform school in recommending paroles for the inmates of said institution. Said officer shall also assist men and boys paroled from said institutions in securing employment in suitable places where they will be as far removed as possible from their old associates. It shall be the duty of said commissioner to assist said paroled prisoners in becoming law-abiding citizens. He shall have general supervision and authority over said paroled prisoners and shall see that they report regularly to the proper authorities, and shall arrest and return to the proper place of confinement those who do not comply with all the terms upon which they shall have been paroled.

History: En. Sec. 2, Ch. 13, L. 1913.

12518. Salary of commissioner. Said state parole commissioner shall be paid the sum of two thousand dollars per annum, and actual traveling expenses while engaged in the duties of his office. Said sums to be paid in the same manner as the salaries and traveling expenses of other state officers.

History: En. Sec. 3, Ch. 13, L. 1913.

CHAPTER 5.

STATE VOCATIONAL SCHOOL FOR GIRLS.

- Section 12519.** State Vocational School for Girls—Establishment.
- 12520. Purpose of School.
 - 12521. Who May Be Committed.
 - 12522. Executive Board.
 - 12523. Oath and Bond of Members.
 - 12524. Meetings of Board—Site and Donations for Buildings.
 - 12525. Principal, Employment of.
 - 12526. Leases of State Land to Executive Board.
 - 12527. Construction—Advertising and Letting.
 - 12528. Meetings of Board—Compensation of Members.
 - 12529. Principal, Reports and Duties of.
 - 12530. Annual Report of Executive Board—Vacancies.
 - 12531. Term of Office of Ex-Officio and Other Members.
 - 12532. Salaries of Principal and Other Officers.
 - 12533. Curriculum.
 - 12534. Powers of Executive Board.
 - 12535. Commitment of Girls to Vocational School.
 - 12536. Health Certificate and Order of Commitment.
 - 12537. Warrant of Judge—Expense of Commitment and Care.
 - 12538. Powers of Judges—Review of Proceedings.
 - 12539. Term of Commitment—Paroles.
 - 12540. Commutations of Punishment to Commitment to Vocational School.
 - 12541. Release and Discharge.
 - 12542. Return of Fugitive.
 - 12543. Connivance at Escape—Punishment.
 - 12544. Furnishing Tools to Aid in Escape—Punishment.
 - 12545. Rewards for Apprehension of Escaped Persons.
 - 12546. Transfer of Inmates.

12519. State vocational school for girls—Establishment. There is hereby established a state vocational school for girls, to be located at a place to be selected by the executive board hereinafter provided for, and approved by the governor and state board of education; provided, however,

that the location of said school may be made temporarily for a period that in the judgment of the state board of education may deem sufficient, at a place where either lands or buildings for said school may be had by donation, or the payment of reasonable rent therefor.

History: En. Sec. 1, Ch. 101, L. 1919.

12520. Purpose of school. Said school is to be for the care, education, training, and safekeeping of girls between the ages of eight and twenty-one years, who are legally committed thereto by a court of record.

History: En. Sec. 2, Ch. 101, L. 1919.

12521. Who may be committed. It shall be the duty of the presiding officer of such school to receive, to the extent of the capacity of the institution, all girls committed to its care under provisions of this act, and to keep the same until they arrive at the age of twenty-one years, or until they are discharged by law, or paroled under the rules of said school.

History: En. Sec. 3, Ch. 101, L. 1919.

12522. Executive board. There shall be an executive board, consisting of three members, to have a general supervision or control of said institution, two of whom shall be women and all of whom shall be citizens of the state, appointed by the governor, by and with the consent of the state board of education, and the principal of said institution shall be an ex-officio member of said board, without a vote.

History: En. Sec. 4, Ch. 101, L. 1919.

12523. Oath and bond of members. As soon as notified of such appointment each member of said executive board shall, before entering upon the duties of her or his office, take and subscribe to the oath before any qualified officer qualified to administer oaths, that she or he will faithfully perform the duties of her or his office according to law and she or he shall give a bond to the state of Montana in the sum of five thousand dollars, with good and sufficient sureties, conditioned for the faithful performance of her or his duties, which bond shall be filed in the office of the secretary of state.

History: En. Sec. 5, Ch. 101, L. 1919.

12524. Meetings of board—Site and donations for buildings. As soon as each member of the executive board shall have complied with the requirements of the preceding section of this act, they shall meet at a convenient place, to be decided later, and shall at once proceed to organize and elect one of their number chairman and one secretary. Thereafter said executive board shall take steps to secure a suitable tract of land of not less than one hundred sixty acres, in the name of the state of Montana, by lease, gift, or purchase, and proceed to make such improvements and erect such buildings as may be necessary for the establishment of such school. And said executive board is hereby authorized to receive in the name of the state of Montana any and all donations, gifts, or contributions to said school, whether in money, lands, labor, material, or supplies. Immediately upon securing the land as aforesaid under this act, the board shall establish a permanent office at or near such tract, and the secretary shall keep any and all books of the board, which shall be open for inspec-

tion, and she or he shall also file with the secretary of state, any and all deeds or leases conveying or leasing lands to the state of Montana for the use and benefit of said school. The chairman shall preside at all meetings of the board; superintend the performance of all contracts for labor and material which have been authorized by the board and see that the terms of each contract are faithfully performed, and shall perform such other duties as the board may direct; provided, however, that the location of said school may be made temporarily for a period that in the judgment of the state board of education may deem sufficient at a place where either lands or buildings for said school may be had by donation or the payment of the reasonable or necessary rent therefor.

History: En. Sec. 6, Ch. 101, L. 1919.

12525. Principal, employment of. It shall be the duty of the executive board to secure and employ, as principal of the state vocational school for girls, a thoroughly competent and qualified woman whose training in the management of such an institution would make her eligible for such position; said appointment to be subject to the approval of the governor and the state board of education.

History: En. Sec. 7, Ch. 101, L. 1919.

12526. Leases of state land to executive board. The board of land commissioners of the state of Montana is hereby authorized and empowered to lease to the executive board of the state vocational school for girls for a period at their discretion, according to law, any parcel or tract of the state school lands selected by the executive board of the state vocational school for girls, at a rental value not to exceed one dollar per acre per annum; that proper contracts of lease for said land shall be executed to said executive board as soon as said board shall have sufficient funds with which to erect or improve buildings thereon. If suitable state school lands cannot be secured, as herein provided, then the executive board of the state vocational school for girls is hereby authorized to contract by lease a suitable tract of land or to purchase the same by contract or otherwise, or to receive by gift as hereinbefore provided.

History: En. Sec. 8, Ch. 101, L. 1919.

12527. Construction—Advertising and letting. All contracts for the erection of buildings and for improvements and the purchase of material and supplies needed for said school shall be advertised and let by contract as provided by the law of the state of Montana, and no member of the board or officer of the school shall be interested directly or indirectly in any contract or award made by the board under penalty of forfeiture of office and fine in similar cases provided by the laws of Montana.

History: En. Sec. 9, Ch. 101, L. 1919.

12528. Meetings of board—Compensation of members. The regular meetings of said board shall be held on the first Tuesdays of March, June, September, and December of each year, and special meetings may be held by order of the chairman or any two members of said board, at the place chosen for its permanent office, and each member shall receive for her or his services as member of said board, five dollars per day and actual

traveling expenses incurred while attending meetings, or in attending to the transaction of any business by and under the direction of said board.

History: En. Sec. 10, Ch. 101, L. 1919.

12529. Principal, reports and duties of. The principal of the state vocational school for girls shall make at every regular meeting reports to the board and shall appoint and discharge all employees, teachers, and other persons connected with the institution and shall be held responsible for the conduct of the state vocational school for girls.

History: En. Sec. 11, Ch. 101, L. 1919.

12530. Annual report of executive board—Vacancies. The executive board of said school shall, on or before the first Monday in June each year, make a detailed statement and report of all its transactions and of the condition of the institution, including the number of officers, teachers, and employees with the salary or wages paid to each, and a detailed statement of all expenses and disbursements of said institution, which report shall contain such other information or recommendations as may be required by the state board of examiners or the state board of education. All vacancies occurring in the membership of the executive board shall be filled by appointment by the governor, with the approval of the state board of education.

History: En. Sec. 12, Ch. 101, L. 1919.

12531. Term of office of ex-officio and other members. The ex-officio member of the executive board shall hold office while principal of the school, and those members appointed by the governor shall hold office for the terms of two years, three years, and four years, respectively, from and after the third Monday in April of the year appointed, unless sooner removed by the governor, by and with the consent of the state board of education.

History: En. Sec. 13, Ch. 101, L. 1919.

12532. Salaries of principal and other officers. The salary of the principal of the state vocational school for girls and of the other officers, teachers, and employees of the school shall be fixed by the executive board with the approval of the state board of education.

History: En. Sec. 14, Ch. 101, L. 1919.

12533. Curriculum. The curriculum of the school shall include home economics, some branches of horticulture, agriculture, and animal husbandry, and a course of study similar to that taught in the public schools, and also such courses and branches of vocations and trades as the state board of education shall determine.

History: En. Sec. 15, Ch. 101, L. 1919.

12534. Powers of executive board. The executive board shall have power and authority, under the direction and subject to the approval of the governor and the state board of education, to regulate the activities of the school, and from time to time, as may be necessary, to erect additional buildings, make all needful improvements, purchase machinery and tools and implements to be used in any of the industrial activities taught

in said school, and have general supervision and control of the institution, and may make such rules for its management and control as may be necessary; provided, that no rule made by the board shall be in conflict with the provisions of the constitution or laws of the state; and provided further, that such buildings and improvements shall not exceed in cost the sum appropriated for such purpose.

History: En. Sec. 16, Ch. 101, L. 1919.

12535. Commitment of girls to vocational school. When any girl between the ages of eight and eighteen years shall, in any court of record or by any judge of the district court of this state, be found guilty of any crime except murder or manslaughter, or if for want of proper parental care is growing up as a mendicant, vagrant, or delinquent, and complaint thereof is properly made and sustained by the evidence, the court or judge may, if in his opinion the accused is a proper subject therefor, instead of entering judgment, cause an order to be entered for such girl to be sent to the state vocational school for girls, in pursuance of the provisions of this act. A copy of such order under the seal of said court, accompanied by a certificate of health, shall be sufficient warrant for carrying such girl to said school, and for her commitment to the custody of the principal thereof; provided, however, that nothing in this section shall be construed to repeal section 12288 of this code.

History: En. Sec. 18, Ch. 101, L. 1919.

12536. Health certificate and order of commitment. At the time and place mentioned in the citation for a hearing or at the time and place to which the hearing may be adjourned, etc., if the parent or guardian to whom said citation may be addressed shall appear, etc., then in his or her presence, or, if he or she shall fail to appear, then in the presence of some competent person whom the said judge shall appoint as guardian for the purpose of the case, it shall be lawful for the said judge to take a voluntary statement of said girl, and hear a statement of the party appearing for her, and to take such testimony in relation to the case as may be produced; and if, upon such examination or hearing, such judge shall be satisfied that the girl is a fit subject for said state vocational school for girls, he may commit her to said school by warrant.

No girl shall be committed to said school who is subject to epileptic fits, and she must be possessed of that degree of mental and bodily health which would render her a fit subject for the training of said school.

And it shall be the duty of the court or judge committing any such girl to cause her to be examined by a reputable licensed woman physician, where such is available, who shall certify to the above facts, which certificate shall be forwarded to said state vocational school for girls with the commitment.

The commitment may be in the following form:

ORDER OF COMMITMENT.

State of Montana, county of, ss.

In the district court, in and for the judicial district, in and for said county and state.

Be it remembered, that on the day of, 19....,, a minor of said county was charged on complaint of, brought before me, the undersigned judge of said court, and upon due proof I do find that the said is a suitable person to be committed to the instruction and training of the state vocational school for girls.

Now, therefore, it is hereby ordered that the said be and is hereby committed to said vocational school for girls until attains the age of twenty-one years, unless she is sooner legally discharged or paroled by the executive board of said school. And I find upon the hearing of said matter that the said was charged with, that is a resident of said county, and of the age of years.

That father's name is; he resides at, in the state of, and is by occupation a That mother's name is, a resident of the state of, by occupation a The names of other near relatives and their residences are as follows:
.....
.....
.....

Witness my hand this day of, A. D. 19....

Judge.

State of Montana, county of, ss.

I,, clerk of the district court of said county, do hereby certify that the Honorable, whose signature is appended to the foregoing order of commitment, was, at the date thereof, and now is the judge of the district court in and for said county.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this day of, A. D. 19....

Clerk.

By.....

Deputy Clerk.

The certificate of health may be in the following form:

CERTIFICATE OF HEALTH.

State of Montana, county of, ss.

....., being first duly sworn, deposes and says: That ..he is a practicing physician duly licensed to practice medicine and surgery in the state of Montana; that at the request of the Honorable, judge of the district court in and for said county, ..he made a careful medical examination of and as a result of said examination ..he makes answer to the following questions correctly, to the best of his or her knowledge, judgment, and belief:

Has a perfect vision? Ans.....

Is of sound intellect? Ans.....

Has sufficient bodily strength to receive instructions? Ans.....

Has any tendency to scrofula or consumption?
Ans.....
Is subject to epileptic fits? Ans.....
Has had the smallpox? Ans.....
Has been vaccinated? Ans.....
Is of sufficiently sound mind and bodily health to be
a proper person to commit to the state vocational school for girls?
Ans.....

.....
Subscribed and sworn to before me this day of,
A. D. 19.....
..... Clerk.
By..... Deputy Clerk.

State of Montana, county of, ss.
I,, clerk of the district court of said county, do hereby
certify that, whose signature is appended to the foregoing
certificate, is a reputable and respectable physician and surgeon in said
county.
In witness whereof, I have hereunto set my hand and affixed the seal
of said court this day of, 19.....
(Seal) Clerk.
By..... Deputy Clerk.

History: En. Sec. 19, Ch. 101, L. 1919.

12537. Warrant of judge—Expense of commitment and care. The
judge shall certify in the warrant the place where the girl resided at the
time of her arrest; also her age as nearly as can be ascertained, and
command a woman officer to take such girl and deliver her without delay
to the principal of said school, or other person in charge thereof, at the
place where the same is located, and the showing of such certificate for
the purposes of this act shall be conclusive evidence of her residence or
age; accompanying this warrant the judge shall transmit by the officer
executing it a statement of the nature of the complaint to the principal,
together with such other particulars concerning the girl as the judge is
able to ascertain; provided, that the expense of committing such girl to
the state vocational school for girls, of the returning of her to her parent
or guardian after her release therefrom, shall be at the expense of the
county from which the girl is committed; and provided, further, that the
county from which any girl committed to the state vocational school for
girls shall be sent shall be liable for the expense attending the care, educa-
tion, training, and safe-keeping of such girl until she shall have been
finally discharged by the executive board of said school, and shall pay for
the same the sum of thirty-five cents per day for each girl so sent until
final discharge. On the first of every month the principal of said voca-
tional school for girls shall prepare and transmit to the respective boards
of county commissioners of the several counties liable for such care,

education, and safe-keeping a certificate showing in detail the persons on whose account such expense was incurred, the amount due on account of each such person respectively for the month preceding, and the said board of commissioners shall allow the said sum so certified against the respective counties, and shall pay the same by warrant to the state vocational school for girls, the same as any other current expense of said county.

History: En. Sec. 20, Ch. 101, L. 1919.

12538. Powers of judges—Review of proceedings. The judge of any district court of any county in the state may, either in chambers or in term time, proceed under the provisions of this act; provided, that any proceedings had before the judge in chambers in any county at a time when the district court of said county is not in session shall be entered and recorded in the minutes of said court on the first day of the ensuing term. Any and all proceedings before the district court, or judge thereof, may be reviewed on writ of error by the supreme court, and in the manner provided by law for reviewing criminal cases in said supreme court.

History: En. Sec. 21, Ch. 101, L. 1919.

12539. Term of commitment—Paroles. Each girl committed to the state vocational school for girls shall remain there until she arrives at the age of twenty-one years, unless paroled or legally discharged; provided, that it shall be lawful for the executive board to discharge therefrom any girl, an inmate thereof, who has arrived at the age of eighteen years, if it be made to appear that while there as an inmate she deported and conducted herself in such a manner as to make it reasonably probable that she has reformed and is a proper person to be discharged.

History: En. Sec. 22, Ch. 101, L. 1919.

12540. Commutations of punishment to commitment to vocational school. Whenever any girl under the age of eighteen years has been sentenced by any court of competent jurisdiction to imprisonment in the state prison, it shall be lawful for the governor, by and with the approval of the board of pardons, upon the application of such girl, her parent or guardian, to commute the punishment by substituting therefor the commitment of such girl to the state vocational school for girls during the minority of said girl, unless sooner discharged by the executive board, under the regulations as herein provided. But should such girl, after being sent to such school, persist in a depraved course, or escape therefrom, it shall be in the power of the governor, by and with the approval of the board of pardons, to revoke such commutation and remand her to the state prison to serve out her unexpired term, and the time so spent by her at the state vocational school for girls, or while a refugee therefrom, shall not be considered as a part of her original term of commitment.

History: En. Sec. 23, Ch. 101, L. 1919.

12541. Release and discharge. The executive board may at any time, if a girl has been in the state vocational school for a period of one year, discharge or release such girl on trial or parole, but in all cases where she is released on trial or parole she must at stated intervals report her conduct to the principal and present certificates of good behavior, whereupon

her leave may be extended. It shall be the duty of the principal to recall any girl who is not conducting herself properly, or who may not have a suitable home.

History: En. Sec. 24, Ch. 101, L. 1919.

12542. Return of fugitives. Any fugitive from said institution may be arrested and returned to said institution by any executive, county or state officer, who shall at once return her to said institution.

History: En. Sec. 25, Ch. 101, L. 1919.

12543. Connivance at escape—Punishment. If any officer or employee of said school, or any other person, shall contrive, procure, and connive at, or otherwise voluntarily suffer the escape of any inmate of said school, every such person on conviction shall be punished by imprisonment in the state prison for a period of not less than six months nor more than two years, or be fined in a sum not exceeding one thousand dollars, or both such fine and imprisonment.

History: En. Sec. 26, Ch. 101, L. 1919.

12544. Furnishing tools to aid in escape—Punishment. If any person shall carry to any inmate of said school any tool, weapon, or other aid with intent to enable any inmate thereof to escape from custody or confinement, whether such escape be effected or not, any person so offending, on conviction thereof, shall be punished by a fine of not more than five hundred dollars, or imprisonment in the state prison for a period of not more than two years, or both such fine and imprisonment.

History: En. Sec. 27, Ch. 101, L. 1919.

12545. Rewards for apprehension of escaped persons. If any girl who has been committed to the state vocational school for girls shall escape therefrom, the governor or acting governor is authorized to offer a reward for her apprehension, which reward shall not exceed the sum of one hundred dollars, and shall be paid out of the state treasury, and the amount which any governor or acting governor of this state may offer as the reward for the apprehension of any inmate as aforesaid is hereby appropriated, and it is hereby made the duty of the state auditor to issue to the person or persons who he may determine is entitled to such reward a warrant on the state treasury therefor.

History: En. Sec. 28, Ch. 101, L. 1919.

12546. Transfer of inmates. At such time as said school is open and ready for occupancy, all girls who are in the custody of the authorities of the industrial school at Miles City shall be then transferred to the state vocational school for girls.

History: En. Sec. 29, Ch. 101, L. 1919.

CHAPTER 6.

COMMITMENT OF FEMALE PERSONS TO REFORMATORY INSTITUTIONS.

- Section 12547. Admission of Female Persons to Reformatory Institutions.
12548. Commitment to Industrial School—When Changed to Other Institutions.
12549. Commitment of Female Persons for Certain Offenses.
12550. Qualifications of Institutions.
12551. Compensation of Institutions.
12552. Annual Reports of Institutions.

12547. Admission of female persons to reformatory institutions. Any female person may at any time apply to the secretary of the bureau of child and animal protection to be admitted to any institution in this state devoted to the purpose of reclaiming or reforming unchaste women, or such as are likely to become so, whereupon such secretary may, in his discretion, make an order directing that such person may be committed to such institution for such period as in his judgment may be necessary.

History: En. Sec. 1, Ch. 131, L. 1909.

12548. Commitment to industrial school—When changed to other institutions. Whenever under any law of this state any court, judge, or magistrate is authorized to commit any person brought before him to the industrial school, he may, if such person be a female, order, instead, that such person be committed to and confined in some institution, such as is designated in the preceding section, and there kept in custody for such period, during the minority of such person, as he may direct, and thereupon such proceedings shall be taken as are provided by law in case of commitments to the industrial school.

History: En. Sec. 2, Ch. 131, L. 1909.

12549. Commitment of female persons for certain offenses. Whenever any female person is convicted before any court or magistrate of drunkenness, disorderly conduct, or vagrancy, she may, at the discretion of the court, or the judge thereof, in lieu of the punishment prescribed by the law or ordinance under which such conviction was had, be committed to some institution, such as is mentioned in section 12547 of this code, for not more than one year.

History: En. Sec. 3, Ch. 131, L. 1909.

12550. Qualifications of institutions. Any institution may qualify itself for the reception of inmates, under the provisions of this act, by filing in the office of the secretary of state a statement to the effect that it is an institution of the character mentioned in section 12547 of this code, and setting out the number of inmates it can accommodate, which said statement shall be verified by the acting head of such institution.

History: En. Sec. 4, Ch. 131, L. 1909.

12551. Compensation of institutions. The person, corporation, or association conducting any such institutions shall be entitled to compensation from the county from which any inmate is sent or admitted, as provided in this act, at the rate of ten dollars per month, to be allowed and paid as other claims against the county are paid.

History: En. Sec. 5, Ch. 131, L. 1909.

12552. Annual reports of institutions. Each such institution shall annually, on or before the first day of January in each year, make a report to the governor showing the number of inmates in such institution, the number admitted under the provisions of this act, and the total amount paid to it by virtue of it.

History: En. Sec. 6, Ch. 131, L. 1909.

INDEX TO PENAL CODE

[See note at head of general index for plan]

ABANDONMENT

- Sheep by herder 11550
- Wife and children—See Wife and Children 11017-11022

ABATEMENT

- Buildings where certain unlawful acts carried on 11124
- Of nuisance maintained in violation of prohibition law—See Intoxicating Liquors 11066, 11123-11133
- See also Nuisances

ABDUCTION

- See also Kidnaping 10970-10972
- Evidence on trial for 11984
- Jurisdiction of actions 11710
- Of women, penalty 11004

ABORTION

- Evidence on trial for 11984
- Penalty for procuring 11023
- Punishment 11023
- Submitting to attempt to procure 11024

ABSENCE

- Defendant from state, effect on time for commencing actions. 11725
- Jury, court may adjourn 12016

ABUSE

- School teachers, of 11527

ACCESSORIES

- Certain distinction between accessories and principal abolished 11863
- Defined 10733
- Indictment against, where found. 11864
- Jurisdiction of actions against... 11717
- May be punished, though principal not 11865
- Punishment 10734

ACCIDENT

- Acts committed by, criminal when 10729
- Homicide by, when excusable.... 10963

ACCOMPLICE

- Conviction when had on testimony of 11988
- Corroboration of, necessary 11988

ACCOUNTS

- Falsification of public 10828

ACCUSATIONS

- Against public officers, where found and filed 11800

ACCUSATIONS (Continued)

- Proceedings for removal of public officers, when by.....11687-11701
- by summary proceedings, when 11702

ACCUSED

- See also Defendant
- Rights and privileges of....11611-11614

ACID

- Assaults with 10979

ACQUITTAL

- Bar to subsequent prosecution, when .. 11581, 12002
- Codefendants 11862
- Court may advise, when 11995
- Defense to second prosecution... 11612
- Discharge of codefendant to testify 11975
- For higher offense, effect of..... 11914
- Former acquittal
 - effect of 11914
 - form of plea 11908
 - plea of 11907
 - plea of, form of verdict 12020
 - what constitutes 11912, 11913
- In another county, bar to action, when 11720
- In another state, bar to action, when 11719
- effect of foreign acquittal 11583
- Insanity, acquittal on ground of procedure 12036
- Justice courts, immediate discharge 12330
- On appeal to district court, discharge 12340
- Reasonable doubt, defendant entitled to 11971
- Variance, defendant not discharged 12034

ACT

- Union with intent to constitute crime 10726

ACTIONS

- See Criminal Actions
- Dismissal of—See Dismissal. 12223-12229
- For
 - abatement of public nuisances. 11127
 - gambling losses, how and by whom prosecuted 11173, 11174
 - recovery of buildings used for gambling, when and how.... 11177
 - violation of liquor laws, compromise of..... 11079
 - burden of proof..... 11079

INDEX TO PENAL CODE.

ACTIONS (Continued)

- Jurisdiction—See Jurisdiction
- Rules of pleading—See Pleading.
- 11841-11874
- To enjoin liquor nuisances 11067

ACTS OR OMISSIONS

- Punishment of—See Punishment.
- 11581-11605

ACTUAL BIAS

- Ground of challenge 11959

ADJOURNMENT

- See also Postponement.....11936-11940
- Examination or trial before magistrate, when and where..... 11776
- Of court during absence of jury, when 12016

ADMINISTRATORS

- Penalty for failure to file reports. 10918

ADMONITION

- To jury on adjournment 11999

ADULTERATION

- Foods, drugs, and liquors, punishment 11241
- Hotels serving adulterated food, law governing11245, 11246
- Possession of foodstuffs prima facie evidence of guilt..... 11247
- Sale of candies, prohibited..... 11265

ADULTERY

- Incestuous, when 11029
- Open and notorious, punishment for 11006
- Punishment for 11029

ADVERTISING

- Cures of venereal diseases prohibited.....11144-11148
- Fakers, definition and punishment 11425
- False advertising defined 11422
- False statement regarding merchandise 11423
- penalty for 11424
- False, to procure workmen action for damages for 11222
- forbidden 11220
- punishment for 11221
- Fortune tellers and others forbidden11523, 11524
- Indecent, forbidden 11136
- Intoxicating liquor forbidden... .. 11062-11064
- Lotteries forbidden 11152, 11153
- Posting on public property forbidden 11481
- Production of advertisement as evidence 11148
- Punishment for false advertising 11424
- To
 - cure venereal diseases forbidden 11144-11148
 - procure divorce forbidden 11564
 - procure miscarriage 11142
 - Union label, counterfeiting of... 11204
 - Use of flag in, forbidden 11561

AFFIDAVITS

- See also Perjury
- See also Specific Titles
- Commission to take testimony... 12202
- Defective title, immaterial..... 11873
- Deposition of witness 12189
- For removal of prisoner to testify 12186
- In justices' and police courts, provisions applicable 12344
- In support of search warrant... 12396
- New trial, newly discovered evidence 12048
- Postponement of trial 11936
- Special proceeding, entitling 12430

AFFINITY

- Challenge of jurors for 11960

AFFRAYS

- Jurisdiction of justice courts.... 11630

AGE OF CONSENT

- In prosecutions for rape 11000

AGENTS

- Commission for taking testimony, return by agent12208, 12209
- Corporations, acting for when law not complied with 11457
- False statements as to consignments 11415
- Foreign corporations, punishable, when 11455

AGGRAVATION

- Of punishment, procedure..12067, 12068

AIDERS AND ABETTERS

- Apprentices, etc., to escape..... 11520
- Election frauds 10756
- In misdemeanors, punishment of. 11586
- Persons out of state, punishment for 10730

ALCOHOL

- See Intoxicating Liquors
- Denatured alcohol, exception prohibition act 11050

ALTERATION

- Bills in legislature10836, 10837
- Brands 11211
- Landmarks 11484
- Public records 10873
- Telegrams 11495

AMENDMENTS

- Effect of verdict 11872
- Not to cause delay of trial..... 11804
- Of indictment or information when allowed on trial 11870
- trial to proceed 11871
- To
 - challenge to panel 11948
 - information, how and when.... 11804
 - interrogatories, when 12205

AMMUNITION

- Sale to Indians prohibited 11259

AMUSEMENTS

- When prohibited on Sunday 11039

INDEX TO PENAL CODE.

ANALYSIS

Officers may take samples of food
for, when 11247

ANIMALS

Branding—See Brands
Control of scab and other diseases
—See Livestock..... 11533-11540
Cruelty to—See Cruelty to Ani-
mals11508-11513
Death from mischievous, penalty. 11260
Dogs are personal property..... 11375
Driving on sidewalks 11504
Exposing or selling with glanders 11263
False pedigree11417, 11418
Having glanders, to be killed.... 11264
Killing by railroads 11278
Larceny of 11371
Leaving carcasses near dwellings. 11532
Permitting diseased, to run at
large 11556
Promoting fights between 11514

ANSWER

Impeachment proceedings...11676, 11677
Removal of officer.....11692, 11695
To indictment, time allowed.... 11890

APOTHECARIES—See Druggists

APPEALS

Contents of record in criminal
cases 12045

APPEALS TO DISTRICT COURT

By
complainant on proceedings to
keep the peace 11651
defendant in justice and police
courts, time for 12334
prosecutor from order to pay
costs 12331
Discharge of defendant on acquit-
tal, when 12340
How taken 12335
Judgment against sureties, when. 12337
Judgment of imprisonment on,
how executed 12341
Notice of 12335
Trial de novo 12339
Undertaking for fine and costs... 12336

APPEALS TO SUPREME COURT

Argument necessary before re-
versal 12122
Argument of counsel, how re-
stricted 12123
By whom taken 12105
Certificate of probable cause, stay 12113
Clerk to transmit record on appeal 12116
Codefendants, one or more may
take 12118
Correction of informality, when
and how 12121
Court may reverse, affirm or mod-
ify judgment 12127
Defendant discharged on reversal
of judgment 12129

APPEALS TO SUPREME COURT

(Continued)

Defendant may appeal from what
..... 12105-12107
need not be present 12124
Discharge of defendant on reversal 12129
Dismissal for irregularity, when
and how..... 12119
effect of 12119
Dismissal for want of return,
when 12120
Duty of clerks upon appeal..... 12116
Effect of appeal by defendant... 12113
sheriff to keep defendant in
custody, when12114, 12115
Error in instructions, no reversal,
when 11969
Exceptions—See Exceptions. 12037-12045
Extent of the matter reviewed on
appeal by defendant 12126
How taken 12110
Informality to be disregarded... 12121
Instructions part of 12043
Joint defendants, one may appeal 12118
Judgment
executed on affirmance 12130
how entered 12131
without regard to technical
errors 12125
Jurisdiction ceases after remitti-
tur 12132
New appeal, when 12121
New trial, where to be had..... 12128
New undertaking, when given... 12121
Notice of, service 12110
Number of counsel to be heard... 12123
On removal from office, extent of
review 11700
Parties, how designated 12106
Power of court on appeal 12127
Record
by bill of exceptions, what con-
stitutes 12045
duty of clerk of district court.. 12116
on, contents of 12045
Remanding to district court.... 12127
Remittitur 12131
Reversal after argument 12122
Review of proceedings as to in-
corrigibles 12505
Service of notice by publication,
when 12111
State may appeal from what ... 12108
Stay on appeal by defendant... 12113
Technicalities to be disregarded. 12125
Time for taking 12109
Transcript of minutes, when used 12045
When codefendant, defendant
may appeal, effect of 12118
When tried 12117

APPEARANCE

Defendant to appear in person
for verdict, when 12018
Forfeiture of bail for want of,
when 11878
Of corporation, how..... 12236

INDEX TO PENAL CODE.

APPLICATION

For leave to file information..... 11624

APPOINTMENT TO OFFICE

Buying prohibited 10829

APPRAISERS

Offering bribes to 10853

Receiving bribes 10854

APPRENTICES

Aiding to run away..... 11520

Use of force in correcting 10980

ARBITRATORS

Bribery of 10853

Embracery, punishment 10858

Improper influencing of 10856

Receiving bribes 10854

ARGUMENT

Comment on failure of defendant
to testify 12177

on law of case 11969

On appeal, number of counsel.... 12123

reversal after 12122

On new trial, what not allowed.. 12047

On trial of case, how conducted.. 11969

ARMED MEN

Bringing into state forbidden,
when 11315

Ordering out to quell riots—See

Riots 11655-11667

ARMS

Of state, unlawful detention of.. 11332

selling by militia 11333

ARRAIGNMENT

Answer of defendant may con-
tain, what 11890

Arrest of defendant for failure to
appear 11878

Counsel, assignment on 11886

Court to order defendant commit-
ted to custody, when 11884

Defendant in custody to be
brought before court 11877

Defendant may be committed if
present 11885

warrant to issue, when 11885

Defendants

when and where arraigned 11875

when to be present 11876

Demurrer may be interposed,
when 11897

Directions to be contained in
warrant 11881

Forfeiture of bail on failure of
defendant to appear 11878

How made 11888

Of defendant for judgment, how. 12064

Procedure when defendant gives
bail in another county 11883

Proceedings when defendant not
indicted by true name 11889

Right of defendant to counsel
upon 11886

compensation of attorney, how
fixed 11887

ARRAIGNMENT (Continued)

Time allowed defendant to plead. 11890

Warrant, how and by whom is-
sued 11879

form of 11880

how served 11882

ARREST OF JUDGMENT

By court without motion, when.. 12052

Certain objections may be taken
by 11906

Defendant to be held or dis-
charged, when 12054

Defined 12051

Effect of 12053

Motion, on what founded 12051

when to be made 12051

ARRESTS

After bail, when ordered 12167

After discharge on habeas corpus,
when permissible 12371

Assistance, summoning of 11756

Attorneys-at-law may visit pris-
oner on request 11774

Authority, duty of officer to show 11758

Bail, admission to, when offense
not within jurisdiction of

magistrate 11748

Bail on arrest for misdemeanor in
another county..... 11740

Bail, on, generally—See Bail

Breaking of doors and windows,
authority 11761, 11762, 11772

By peace officers, when made 11753

private person, when..... 11751, 11754, 11755

duty of private person. 11764-11766

telegraph, how made 11767, 11768

whom made 11751

Carrying concealed weapons 12305

Counsel, information as to rights 11773

sending for 11774

Daytime, made in, when 11757

Defect in form of warrant, habeas
corpus 12363

Defendant arrested after bail,
when 12167

before whom taken 11739

failing to appear for sentence.. 12060-12062

on bail, failure to appear 11878

to be informed of rights 11773

to be taken before magistrate,
where 11747

to be taken before magistrate
without delay 11744

Definition 11751

Degree of restraint allowed 11752

Delay in taking person before
magistrate 10920

Doors and windows broken, when
and by whom 11761, 11762

Duty

of officer arresting 11747-11758

of officers in conveying pris-
oner 11749

of private person arresting.... 11764

INDEX TO PENAL CODE.

ARRESTS (Continued)

Escapes	
persons arresting, may break doors and windows, when . . .	11772
right of person arresting, to pursue	11771
Examination	
magistrate to inform defendant of rights	11773
of defendant when no other provisions made	11769
Exhibition of warrant	11759
Force may be used, when	11760
Form of warrant	11733
Fugitives from other states. 12418-12426	
from reform school	12509
Gambling, authority to break into buildings	11168
How made	11752-11758
duty to inform prisoner of charge	11758
restraint of person	11752
Indictment on, findings of	11839
Inhumanity to prisoners	10922
Magistrate may order, orally.	11755
Magistrate who issued warrant must act, when	11744
Making, without lawful authority	10921
Malicious procuring of warrant of	10948
Malicious, under color of official right	11394
Misdemeanors, bail	11748
Misdemeanors in another county bail	11740-11742
defendant, how admitted to bail	11740
proceedings in such cases	11741
proceedings when bail not given	11742
Night-time, made in, when. 11753, 11757	
No delay in taking defendant before magistrate	11744
Of dead body, punishment.	11037
Of defendant on failure to appear for arraignment	11878
Of fugitives, receiving fees.	10919
Officer	
may convey prisoner through any county.	11749
officer exempt from arrest on civil process	11750
powers of officer to require aid	11750
to deliver warrant and return to magistrate	11742
Officers	
arresting with warrant, duty of	11765
may arrest in another county.	11738
refusing to arrest	10916
Oral order for arrest, when	11755
Peace officers may arrest, when.	11753
Penalty for making, without authority	10921
Person arrested to be informed of what	11758
Persons	
assisting escape	10870, 10871
in charge of gambling devices.	11166
making, may summon assistance	11756

ARRESTS (Continued)

Police to keep record of goods taken from prisoner	12246
Powers of officers	11750
Private person, duty on making.	11764
Private persons may arrest, when	11754
Procedure where defendant taken before other magistrate.	11745
Procedure where defendant triable in other county	11746
Receipt for money, etc., taken from prisoner	12245
Refusal to aid in	10930
Rescue of person under	10864
Resisting officers	10928
Restraint necessary	11752
Rioters failing to disperse	11659
Security to keep the peace	11639
Taking of weapons from prisoner	11763
Telegraph, procedure to arrest by	11767, 11768
Trial and judgment of misdemeanor	11770
Upon filing information	11626
Warrant of arrest	
contents	11734
directed to whom	11735-11737
execution in any county. 11737, 11738	
felony, defendant taken before what magistrate	11739
form of	11733
peace officers must execute.	11735
to be shown, when.	11759
to what peace officers directed.	11736, 11737
Weapons taken from persons arrested	11763
disposal of	11763
What force to be used	11760
What time of day it may be made	11757
When force not unlawful	10980
When peace officer may make.	11753
When warrant to issue.	11730
With warrant, duty of officer.	11765
Without lawful authority	10921
Without probable cause, habeas corpus	12362
Without warrant, duty of person arresting	11766
Without warrant, for carrying concealed weapons	11305
Without warrant, procedure.	11731
ARSON	
Building defined	11338
Burning defined	11341
of insured property	11426
when not arson	11476
Defined	11337
Degrees of	11343, 11344
First and second degree distinguished	11344
Inhabited building defined	11339
Night-time defined	11340
Ownership of building, what constitutes	11342
Punishment	11345

INDEX TO PENAL CODE.

ART

Injuring works of11497, 11498

ASSAULTS

By officers under color of author-
ity 10929
First degree, definition and pen-
alty 10976
In presence of court, security to
keep peace 11646
Possession of deadly weapon with
intent to 11354
Second degree, definition and pen-
alty 10977
Third degree, definition and pen-
alty 10978
jurisdiction of justices' courts. 11630
Use of force lawful, when 10980
With caustic chemicals 10979

ASSAYING

Interference with samples 11420
Publishing false assay 11421

ASSEMBLY—See Unlawful Assembly.

ASSESSMENT—See Taxation.

ASSESSOR

False statement to 11324
Offering bribes to 10853
Receiving bribes 10854
Refusing list of property to 11323

ASSIGNATION HOUSES

Keeping of, misdemeanor 11141

ASSIGNMENT

Fraudulent 11435
by debtor 10932

ATTACHMENT

Dead bodies, forbidden 11037
Disobedience to writ of habeas
corpus 12354
Fraudulent conveyances to avoid. 11433
On complaint for bastardy..... 12270
On hearing for writ of habeas
corpus 12359
Penalty for making without law-
ful authority 10921
Retaking of goods from custody. 10865

ATTEMPTS

Defendant may be convicted of.. 11868
Definition 11590
Escape from state prison 10867
Fraudulent voting or registering. 10750
How punishable 11591
Interference with electric appara-
tus 11473
Jury may find upon charge of
greater offense 12024
Second offense, how punished.... 11593
Prior conviction, punishment 11594
To rescue prisoners 10864
To wreck, hold up, etc., railroad
trains 11469-11471
When punishable 11590

ATTORNEY-GENERAL

Duty as to lotteries 11155
to enjoin liquor nuisances 11067
to investigate and prosecute
violation of prohibition law. 11109
Investigations of unfair price dis-
crimination 10905, 10911
May not dismiss prosecution with-
out consent of court 12228
Member of board of state prison
commissioners 12434

ATTORNEYS-AT-LAW

See also Counsel.
Advertising to procure divorce.. 11564
Appointment by court to defend
accused, when 11886
Argument by—See Argument
Barratry, punishment 10936, 10937
Buying demands to bring suit... 10939
Common barratry defined 10936
proof required 10937
Compensation when appointed to
defend 11887
Court to assign counsel on ar-
raignment, when 11886
Defendant on examination may
send for 11774
Forbidden to defend prosecutions,
when 10940, 10941
Judge to appoint defendant at
taking deposition of witness. 12193
May comment upon what in argu-
ment 11969
defend himself 10941
visit defendant arrested 11744
Misconduct 10938
Not to appear on application for
parole of convicts 12266
Pardons, may be present at hear-
ing 12254
When not to defend or advise... 10940

AUCTIONEERS

Acting as, without authority.... 11329

AUCTIONS

Failure of auctioneer to record
sales of stock 11541
Obtaining property by mock auc-
tion, punishment 11414

AUDITOR, STATE

Neglect of duty a felony, when. 11331

AUTHENTICATION

Testimony of witnesses in homi-
cide cases 11783

AUTHORITY

Arrests without penalty, for 10921
Assault by officers, under color of 10929
When joint, how construed 10713

AUTOMOBILES

Possession when parts have been
removed, prohibited 11479
penalty for selling or disposing
of 11480

INDEX TO PENAL CODE.

AUTOMOBILES (Continued)

Punishment for use without owner's consent	11478
Seizure and sale for violation of liquor laws	11073

BAGGAGE

Penalty for false show of.....	11579
--------------------------------	-------

BAIL

Action on undertaking, what not to bar	12163
Admission to	
defined	12133
on habeas corpus	12366
when offense not within jurisdiction of magistrate	11748
After conviction	
nature of undertaking	12138
when	12137
Arrest	
for misdemeanor in another county, bail on	11740-11742
of defendant, when ordered...	12167
Before conviction	
nature of undertaking	12138
when allowable	12136
Court to fix, when	12145
Default to be entered in minutes	12161
Defendant	
found insane, exoneration, when in justice's court admissible to, when	12217
when	12342
Deposit	
forfeiture, to whom paid.....	12166
in lieu, exoneration	12155
in lieu of	12154-12156
Discharge of defendant on giving	12144
During continuance, when	12225
Exoneration, allowance of demurrer to information	11903
dismissal of action	12226
on allowance of motion in arrest of judgment	12054
on reversal of judgment, when.	12129
upon conviction	12035
when	11994
For appearance in district court	
discharge of defendant, when..	12144
form of undertaking	12141
Forfeiture	
how enforced	12164
on default of person under bail	12161
on failure of defendant to appear for arraignment	11878
Forfeiture of bail	
action against bail by county attorney, when	12164
default of person to be entered	12161
defendant's absence at sentence	12059
discharge of, when	12160
how forfeited	12160
money, how disposed of	12166
real property liable	12165
surrender of defendant, releases surety	12162
when	11878
when and how	12160
Form of undertaking	12149

BAIL (Continued)

Fugitives from other states.	12421, 12422
Habeas corpus	
for purpose of	12365
judge may take bail	12366
In another county, procedure....	11883
In justice and police courts....	12342
provisions applicable	12342
Increase or reduction	12151
Indorsement on warrant	12146
after indictment, how	11840
Justification of sureties....	12143, 12150
Kinds of bail	12138
Liability of real estate	12165
May be increased, when	11884
Misdemeanors, admission to....	11748
in another county	11740, 11742
Money forfeited, how disposed of	12166
None in capital cases. 12135, 12145, 12147	
Notice of application given county attorney	12139
Offenses not bailable, when.....	12135
On appeal	
qualifications of bail	12153
undertaking, contents of.....	12153
who may admit to	12152
On commitment	11788
On habeas corpus	12148
On holding to answer before information	
defendant to be discharged on allowance	12144
form of undertaking	12141
how put in	12141
justification of bail	12143
qualifications of bail	12142
what magistrate may admit ..	12140
On indictment	11840
On indictment or information before conviction	
allowed when offense is not capital, how	12145
bail on habeas corpus	12148
clerk to indorse warrant.....	12146
form of undertaking	12149
increase of, when and how....	12151
On indictment or information, etc.	
procedure when offense is capital	12147
provisions applicable to qualifications of bail	12150
reduction of, when and how...	12151
undertaking, form of	12149
On postponement of examination	11776
Order for, on commitment	11788
Qualifications of bail	12142
Reasonable notice given to county attorney, when	12139
Recommitment of defendant after bail	
defendant may be admitted to bail, when	12171
bail, by whom taken.....	12172
defendant may be arrested in another county	12169
defendant may be arrested, when	12167
contents of order	12168

INDEX TO PENAL CODE.

BAIL (Continued)

Recommitment of defendant after bail (continued)	
defendant to be committed for failure to appear, when.....	12170
how put in	12174
qualifications of bail	12174
undertaking, form of	12173
Reduction, notice to county attorney	12151
Release, when	12159, 12162
Sureties, qualifications	12142, 12150, 12153
Surrender of defendant, release.	12162
return of deposit	12159
when and how	12157, 12158
Taking of, defined	12134
Upon recommitment, form of undertaking	12173
What magistrates may admit to.	12140
What will not bar action on bond	12163
When default to be entered	12161
When not allowable.....	12135
When notice required	12139
Witnesses, forfeiture	12185

BAILIFFS

Misconduct when in charge of jury	10859
Oath on final retirement of jury.	12005
Oath when placed in charge of jury during trial	11998

BALLOTS

See also Corrupt Practices Act..	10773-10820
See Election Frauds and Offenses	10747-10772

BANKS AND BANKING

Conversion by officers, larceny..	11382
False statement to banks respecting financial condition	11408
Incorporation of banks, how proved on forgery trials....	11983
Making, passing, etc., of bills..	11360, 11361
Officer overdrawing account, punishment	11442
Prior offenses not affected by act	11444
Receiving deposits by insolvent..	11443, 11444
Savings, officers overdrawing account	11442
Unlawfully issuing paper of....	11525
Uttering fraudulent checks on banks, larceny	11369

BAR

Aquittal or conviction, when...	11581, 11583, 12002
Allowance of demurrer to information, when, when not....	11902
Compromise of misdemeanors...	12221
Conviction or acquittal for offenses included in former...	11914
Conviction or acquittal in another state	11719
in another county	11720
of offense consisting of degrees	12002

BAR (Continued)

Discharge of codefendant to testify	11975
Dismissal	11686
Impeachment no bar to indictment or information	11686
Setting aside information is not.	11895
To information, dismissal of charge by grand jury	11835
To recovery on undertaking, what not	12163
What may not be pleaded on new trial	12047

BARBED WIRE

Permitting fences to become dangerous	11557
---	-------

BARBERS

Conducting business on Sunday forbidden	11040, 11041
---	--------------

BARRATRY

Defined, and punishment for....	10936
proof required	10937

BASTARDY, PROCEEDINGS IN

Clerk to give notice, how	12268
Complaint, how filed and entitled	12267
County attorney to prosecute...	12271
Issues on trial	12272
Judge may order attachment without bond	12270
Judgment if accused found guilty	12273
Lien upon real property, how created	12269
Power of court over judgments and orders	12274

BATTERY—See Assault

BAWDY HOUSES—See Prostitution

BEEF

Sale of diseased carcasses forbidden	11243
--	-------

BEER

See Intoxicating Liquors...11048-11133
--

BEGGARS

Penalty for using child as.....	11021
Vagrancy	11521

BENCH-WARRANT

Issuance on failure to appear for arraignment	11879-11882
Issuance to produce defendant for judgment, when	12060
arrest of defendant	12063
form of warrant	12061
warrant, how served.....	12062

BETTING

See Racing Bets	11180-11183
See also Gambling	11159-11183
Election bets forbidden.....	10767, 10794

BIAS

Grounds for challenge of juror...	11959, 11960
-----------------------------------	--------------

INDEX TO PENAL CODE.

BIGAMY

- Defined 11025
- exceptions 11026
- punishment 11027
- Evidence on trial for 11982
- Jurisdiction when defendant apprehended in another county 11711
- Marrying spouse of another.... 11028

BILLIARD-HALLS

- See Poolhalls 11188-11192

BILLS

- Member of legislature to disclose interest in..... 10844
- Penalty for altering in legislature 10836, 10837

BILLS OF EXCEPTION

- See Exceptions12037-12045

BILLS OF LADING

- Carriers issuing fictitious 11459
- Duplicates to be marked "duplicate" 11462
- Erroneous bills, good faith..... 11461
- Selling, etc., of property stored.. 11463
- Warehousemen, issuing fictitious. 11460

BIRTH

- Fraudulent pretenses concerning. 10934, 10935

BLACKLISTING

- Misdemeanor 11219

BLACKMAIL

- Acts constituting 11397

BOARD OF EXAMINERS

- Audit bills for transportation of prisoners 12464
- Audit state prison accounts.... 12463
- Penalty for violation of duty.... 11331

BOARD OF PARDONS

- See Pardons 12247-12266
- See also Sentence

BOARD OF STATE PRISON COMMISSIONERS

- See State Prison12434-12465

BOARDING-HOUSES

- Compulsory, forbidden 11223
- Penalty for defrauding 11579
- Possession of adulterated foods, prima facie evidence 11247
- service of by, regulation of.... 11245
- Serving adulterated goods, notice 11245, 11246
- Use of oleomargarine, posting notice 11249

BOATS

- Sinking or setting adrift..... 11488

BODIES

- See Sepulture11032-11038

BOILERS

- See Steam-boilers11195-11198
- Death from explosions 11229

BOMBS

- Manufacture and sale for wrongful use a felony 11281
- see also Explosives.....11282, 11283

BONDED WAREHOUSES

- Storage of intoxicating liquors in, when permitted 11082

BONDS

- See Undertakings
- Chief probation officer 12301

BOOKS

- Corporations, false accounts..... 11445
- Destroying in public library..... 11498
- Larceny by public officers..... 10873
- Obscene, forbidden11134-11136

BOUNDARIES

- Of counties, jurisdiction of offenses on 11708

BOWLING-ALLEYS

- Closing hour for 11190

BOXING-MATCHES

- See also Prizefights
- Engaging in, forbidden 11296
- exception 11296

BRANDS

- Altering, punishment 11211
- Criminal statutes regulating use of—See Livestock 11543-11554
- Jury may inspect 11996

BREACH OF PEACE—See Disturbances

BRIBE

- Defined 10713

BRIBERY

- Acts constituting 10769
- Asking or receiving by executive officers 10824
- Boards of trustees 10943
- By members of legislature, what constitutes10841, 10842
- City or town councils 10943
- Conventions, members of 10764
- County commissioners 10943
- Defined in election offenses, punishment for 10769
- Giving or offering to executive officers 10823
- Giving or offering to members of legislature 10838
- Judges, jurors and referees, penalty for 10853
- Of
 - board of county commissioners. 10943
 - jurors 10856
 - member of legislature 10849
 - acts constituting10850, 10851
 - school trustees forbidden..... 10862
- Punishment of 10769
- Receipt
 - by members of legislature.... 10839
 - by judges, jurors and other officers 10854

INDEX TO PENAL CODE.

BIBERY (Continued)

- Solicitation by
 - judicial officers, penalty 10855
 - members of legislature 10840
- Solicitation of
 - by member of legislature..... 10848
 - public officers, what constitutes 10843
- Telegraphic operators, of..... 11519
- Who competent as witnesses..... 10863
- Witnesses, penalty for bribing... 10896
- receiving or offering to..... 10897

BRIDGES

- Malicious destruction, punishment 11476, 11487
- Malicious injury to 11464
- Riding or driving faster than a walk 11252
- driving cattle over 11252

BROKERS

- False statements by 11415

BUCKETSHOPS

- Prohibited 11159

BUILDINGS

- See also Arson 11338-11342
- Abatement of buildings constituting nuisances when—See Intoxicating Liquors 11123-11133
- Authority to break into, where games played 11168
- Burning—See Burning
- Destruction by explosives, punishment 11477
- Public, defacing 11506
- regulation of doors 11266
- Punishment for burning, when not arson 11476
- Vacant, destroying or defacing.. 11481

BULLFIGHTS

- Prohibited 11514

BULLION

- Counterfeiting 11362

BURDEN OF PROOF

- Actions for violation prohibition act 11079
- Shifts in murder trials, when.... 11980

BURGLARIOUS INSTRUMENTS

- Possession prohibited 11353

BURGLARY

- Defined 11346
- Degrees of 11347
- "Enter" defined 11349
- Jurisdiction when property brought into another county 11712
- Night-time defined 11350
- Possession of burglarious instruments 11353
- Punishment 11348
- Verdict, value of property 12026
- With explosives defined 11351
- punishment 11352

BURIAL

- Offenses concerning—See Sepulture 11032, 11038

BURNING

- See also Fires
- Arson—See Arson 11337-11345
- Buildings, punishment when not arson 11476
- Grain, penalty for 11476
- Insured property 11426
- false claims for loss 11427
- Rafts, prohibited 11488

BUTCHERS

- Sale of diseased animals forbidden 11243

BUTTER

- Regulation of sale and use of oleomargarine 11248, 11249

CALENDAR

- Criminal actions, clerk to prepare 11933
- How causes set for trial..... 11940
- Order of disposal of issues..... 11934

CAMPAIGN STATEMENTS AND EXPENSES

- See Corrupt Practices Act.. 10773-10820

CAMPFIRES

- Negligent control of..... 11500-11502

CAMP-MEETINGS

- Selling merchandise at, forbidden 11043, 11044

CANADA THISTLE—See Weeds, Political Code

CANALS

- Malicious injury to 11487
- Obstructing or taking water from 11467

CANDIDATE

- Word construed under corrupt practices act 10775

CANDIES

- Sale, when adulterated, forbidden 11265

CAPACITY

- Who capable of committing crime 10729

CAPITAL OFFENSES

- Not bailable, when 12135

CARCASSES

- Disposal, where forbidden 11235
- Sale of, without inspection forbidden 11243
- Skinning animals and leaving near dwelling 11532

CARD GAMES

- See Gambling 11159-11179

CARRIERS

- See also Bills of Lading... 11459-11463
- See also Railroads
- Intoxicating liquors, duties concerning transportation—See Intoxicating Liquors... 11058-11061

INDEX TO PENAL CODE.

CARRIERS (Continued)

- Penalty for refusal to receive passengers 11218
- Standing rewards for holdups... 12416
- Transportation of intoxicating liquors by—See Intoxicating Liquors11048-11133
- Transporting diseased cattle under quarantine 11539
- scabby sheep 11536
- Use of force in expelling passengers 10980

CARS

- Stealing rides upon—See Stealing Rides11568-11570

CATTLE

- See also Livestock
- Altering brands 11211
- Control of scab and other diseases —See Livestock11533-11540
- Driving from customary range forbidden 11549
- Driving over lands of another forbidden, when11225-11228
- Slaughtering diseased 11243

CAUSTIC CHEMICALS

- Assaults with 10979

CEMETERIES

- Offenses concerning—See Sepulture11032-11038

CERTIFICATE OF PROBABLE CAUSE

- Stay on issuance of 12113

CERTIFICATES

- False making by officers 10945
- Officers of fire department unlawfully issuing, of exemption.. 11526
- Unlawful issuance of, as money.. 11525
- When deemed complete, for perjury charge 10886

CHALLENGES

- Bias
 - actual and implied11959, 11960
 - opinion stated does not constitute, when 11962
 - reading newspapers not ground for, when 11962
- Causes, how stated 11962
- Decision of court to be entered on trial of 11967
- Defendants cannot sever 11942
- Definition and divisions of..... 11941
- Denial, how made 11949
- Effect of allowance 11950
- Entry in minutes 11962
- Exception to 11947
 - allowance, amendment to challenge 11948
 - by adverse party 11963
- Exceptions permissible to defendant 12037
- Exemption from jury service not cause of 11961

CHALLENGES (Continued)

- For cause, definition and kinds of 11957
- General causes of 11958
- Grand juror acting after, penalty for 10942
- Grounds of, for implied bias 11960
- How taken 11968
- Implied bias, grounds of challenge for 11960
- In justice and police courts.... 12317
- Juror may be examined as witness 11965
- Kinds of, to individual juror 11951
- Number
 - allowed defendant 11955
 - allowed state 11956
- Panel defined 11943
- challenge to, defined 11944
- Particular causes of 11959
- Peremptory
 - defined 11954
 - number of 11955
 - when and how taken....11954-11956
- Procedure
 - after jury sworn 11953
 - if challenge allowed 11950
 - if disallowed 11950
 - on exceptions to 11963
 - when exception overruled.. 11948
- Rules of evidence on trial of.... 11966
- State, number allowed 11956
- To grand jury
 - decision upon 11812
 - effect of allowing to juror. 11814, 11815
 - effect of allowing to panel.... 11813
 - how made and tried 11811
 - to individual grand jurors,
 - cause for 11810
 - who may file 11808
- To panel, causes for 11945
- defined 11944
- of grand jury, cause for 11809
- when and how taken 11946
- Trial of, how had 11949
- when facts denied 11964
- Voters, procedure on challenge... 10792
- When taken 11952

CHALLENGING VOTER

- Procedure after oath administered 10792

CHANGE OF PLACE OF TRIAL

- See Change of Venue11916-11927

CHANGE OF VENUE

- Application, when and how made. 11918
- Awarded, when 11916
- Change as to other defendants... 11927
- Custody of defendant 11923
- Grounds for 11916
- In justice and police courts.12307, 12308
- Not to be granted, when..... 11921
- One change only allowed..... 11919
- Order
 - as notice to witnesses..... 11925
 - of court or judge 11919
 - of removal, how entered..... 11922
- Penalty for failure of duty by clerk 11926
- Petition for, contents of 11916
- how supported 11917

INDEX TO PENAL CODE.

CHANGE OF VENUE (Continued)

Records to be transmitted by clerk	11924
Removal allowed before new trial	11921
State may apply when, procedure	11920
Transmission of pleadings.....	11924
Trial after change	11924
When granted in justice and police courts	12307

CHARGE

Excessive by railroads, penalty...	11401
To grand jury, contents of.11818, 11832	
To jury, how and when given....	11969

CHATTEL MORTGAGES

Penalty for selling or moving property	11416
--	-------

CHEATS

Assaying, interference with	11420
Confidence games	11411
Consignees, false statements by. 11415	
False pedigrees of animals.....	11417
False statements to obtain credit 11408	
Husband or wife selling under false representations	11413
Mock auctions	11414
Removal of mortgaged property. 11416	
Selling	
animals with false pedigree... 11418	
land twice	11412
mines under false pretenses... 11419	

CHECKS

Making, passing or uttering fictitious checks	11361
issuing as money	11525
Uttering fraudulent checks or drafts, larceny	11369
evidence	11369

CHEESE

Imitations to be labeled	11248
printed notice	11249

CHEMICALS

Caustic, assault with	10979
-----------------------------	-------

CHEMIST, STATE

Power to inspect foods.....	11247
-----------------------------	-------

CHILD AND ANIMAL PROTECTION, BUREAU OF

Application to, for admission of females to reformatory institutions	12547
Duties concerning juvenile delinquents—See Juvenile Delinquents	12275-12301

CHILDREN

Abandonment and nonsupport—See Wife and Children.11017-11022	
Bastards—See Bastardy, Proceedings in	12267-12274
Capable of committing crime, when	10729
Control of juvenile delinquents—See Juvenile Delinquents....	12275-12301

CHILDREN (Continued)

Correction by persons authorized	10980
Cruelty to, penalty for	11022
Desertion or abandonment of, penalty for	11020
Disposing of, for mendicant occupations	11021
Enticing away, jurisdiction	11710
Fraudulent pretenses relative to birth of	10934
Kidnaping	10970
Lewd acts upon, penalty for....	11005
Penalty for improper training of	12293
Right of action for injury from sale of intoxicating liquor... 11065	
Substituting one for another	10935
Use of firearms by, prohibited... 11565	
liability of parent or guardian 11566	

CHURCHES

Defacing	11506
Regulation of doors	11266

CIGARETTES

Sale to minors forbidden	11047
Use of by children, delinquency.. 12275	

CIRCULARS

Advertising cure of certain diseases prohibited	11145
punishment	11147

CITIES AND TOWNS

Bribery of councilmen forbidden. 10943	
Carrying concealed weapons in.. 11302	
Driving animals on sidewalks.... 11504	
Injuring ornamental improvements within	11497
Justices must pay fines to treasurer	12347
Maintenance of pesthouses	11234
Mining shafts in, protection of.. 11267	
Ordinance, how referred to in police courts	12302
Ordinances concerning gambling void	11179
Police, organization of, how regulated	11653
to preserve peace at public meetings	11654
Pollution by carcasses forbidden. 11235	
Shooting firearms in limits of... 11530	

CITIZENSHIP

Power of governor to restore....	12263
----------------------------------	-------

CIVIL DEATH

Occurs, when	11601
limitations	11602

CIVIL REMEDIES

Not affected by Penal Code.....	10715
---------------------------------	-------

CIVIL RIGHTS

Suspension by imprisonment, when	11600
limitations	11602

CLAIM AND DELIVERY

Replevin of liquor forbidden....	11107
----------------------------------	-------

INDEX TO PENAL CODE.

CLAIMS

- Buying by attorneys forbidden.. 10939
- Penalty for presenting false claims
to officers 10828

CLAIRVOYANTS

- See Fortune Tellers11522-11524

CLERK OF DISTRICT COURT

- Calendar, preparation of..... 11933
- order of disposal of issues on.. 11934
- Change of venue, neglect of duty,
punishment 11926
- Disclosing finding of indictment. 10946
- Duties on receipt of verdict.... 12019
- Duty on order of change of place
of trial 11922
- to record information 11866
- Filing of undertaking to keep the
peace 11645
- Judgment-roll, duty to file..... 12074
- Leave to file information, enter-
ing on minutes 11627
- Minutes of decision on challenge
of grand jury 11812
- Not to disclose filing of informa-
tion, when 11867
- Record on appeal, preparation and
transmission 12045
- Subpoena, issuance of 12179
- Testimony at coroner's inquest to
be filed with12386, 12387
- To issue writ of habeas corpus,
process, etc. 12378

CLOTHING

- Exposing infected 11503

COAL

- Deposit of slack in streams.11276, 11277
- Full weight by ton 11431

COAL MINES

- Depositing slack in streams for-
bidden11276, 11277

COCK FIGHTS

- Prohibited 11514

CODE—See Penal Code

CODEFENDANTS

- Any one or more may be con-
victed or acquitted 11862
- Appeal by one or more, effect.... 12118
- Challenging jury, procedure.... 11942
- Discharge of one to testify for
other, when 11975
- Effect of order of change of venue
as to one 11927
- Evidence, use of 12178
- One or more may take appeal.... 12118
- Turning-state's evidence 11974
- Verdict of jury, justices' courts..12323
- what may be found 12025

COIN

- Counterfeiting, penalty 11362
- Receiving counterfeit 11364

COLLECTORS

- Revenue, refusal of inspection of
books 11330

COLLISION

- Death from, punishment for 11230

COLLUSION

- By attorneys, penalty for 10933

COMBINATIONS IN RESTRAINT OF TRADE

- See Restraint of Trade.... 10901-10915

COMMISSION

- To take testimony—See Deposi-
tions 12199-12212

COMMISSION MERCHANTS

- False statements by 11415

COMMITMENT

- After found insane 12216
- Bail, order for 11788
- By justice, discharge, how..... 12333
- Defect in form of warrant, not
cause for release on habeas
corpus 12363
- Defendant on appearing for trial,
when 12006
- on preliminary examination, how
and when 11786
- order for, to sheriff 11787
- Depositions of witnesses, when..
..... 11794, 11795
- Dismissal of action, when 12223
- Failure to give increased bail....
..... 11884, 11885
- security to keep the peace.... 11643
- discharge, when 11644
- For examination, form of 11777
- Form of 11790, 12503
- Fugitives from other states, for
what time 12421
- procedure 12420
- Of defendant appearing for trial,
when 12006
- On postponement of examination,
when 11776
- On preliminary examination, how
made and to whom delivered. 11789
- Order for 11787
- bail on 11788
- signing and delivery to officer. 11789
- Papers, etc., transmitted by mag-
istrate to clerk of court.... 11796
- Recommitment after giving bail,
when 12167-12174
- Sheriff to receive persons com-
mitted 12482
- Statement of complaint to accom-
pany 12504
- To industrial school, form of...
..... 12289, 12503
- To vocational school for girls..
..... 12535-12537
- Undertaking of witness to appear
in court 11791, 11792
- Upon failure to appear 12170
- When 12305

INDEX TO PENAL CODE.

COMMITMENT (Continued)

- When and how 11786
- Witnesses on refusal to give security, when 11794

COMMON BARRATRY

- See Barratry10936, 10937

COMMON CARRIERS—See Carriers

COMMON LAW

- Construction of code 10710
- Petit treason abolished 10958

COMMUNICATION

- With convicts, when forbidden.. 10949

COMMUTATIONS

- See Pardons12247–12266
- Sentence of convicts for good behavior12455, 12456
- Sentence of inmates of industrial school 12507

COMPANIES

- Compulsory boarding-houses prohibited 11223

COMPENSATION

- Of counsel when appointed to defend 11887

COMPETENCY

- Convicts as witnesses 11603
- Witnesses—See Witnesses ..12175–12178

COMPLAINT

- Action to recover gambling losses11175, 11176
- Actions in justice court prosecuted by 11621
- Arrest without warrant, complaint to be filed 11731
- Bastardy proceedings 12267
- Charges to be by..... 11773
- Contents of 11728
- Defined 11615
- Duty to make 11729
- For violation of intoxicating liquor laws, form of..... 11071
- Form of, in election contests..... 10818
- In abatement proceedings by county attorney 11126
- In justice or police courts 12302
- actions prosecuted by 11621
- on demurrer sustained..... 12311
- Magistrate may issue subpoenas.. 11732
- to examine complainant 11730
- Security to keep the peace..... 11637
- Warrant for arrest, when issued. 11730

COMPOUNDING CRIMES

- Punishment for 10931

COMPROMISING OFFENSES

- Compromise bar to another prosecution 12221
- In what cases permissible 12220
- Public offenses cannot be compromised, when 12222

CONCEALED WEAPONS

- See Weapons 11302–11309

CONCEALMENT

- Of
 - apprentices 11520
 - crime, punishment for 10931
 - property by debtors and defendants10932, 10933
 - property by insolvent debtor .. 11435
- Wearing masks or disguises prohibited, when 11571

CONCERT-HALLS

- Conducting on Sunday forbidden 11039

CONCUBINAGE

- Importation and exportation of women for 11008

CONDITIONAL EXAMINATION

- Witnesses—See Witnesses..12187–12198

CONDUCTOR

- Intoxicated, on duty 11253
- Power to arrest for disturbances. 11317
- Railroad, peace officer for certain purposes 11570
- Violation of duty, punishment... 11255

CONFESSION

- Judgment by, court to inflict punishment 12028
- Obtaining by third degree methods prohibited10923, 10924

CONFIDENCE GAMES

- Obtaining property by, punishment 11411

CONFINEMENT

- In jails to be actual 12471

CONSANGUINITY

- Ground for challenge of juror... 11960
- Incest 11029

CONSENT

- Age of 11000

CONSIGNMENT

- False statement by brokers..... 11415

CONSPIRACY

- See also Restraint of Trade.10901–10915
- Criminal, defined10898, 10899
- Evidence on trial for 11979
- Overt act, when necessary 11979

CONSTABLES

- Duty as to branding livestock while driven through state.. 11547
- as to gambling 11169
- Execution of judgment of justice 12326
- Interest in judgments forbidden. 10860
- May break into buildings where games played 11168
- Peace officers 11620
- Penalty for refusal to arrest persons 10916
- Refusal to pay over fines, etc.... 11321
- To serve coroner's warrant 12391

INDEX TO PENAL CODE.

CONSTABLES (Continued)

- Trainmen are, for certain purpose 11570
- Warrant of arrest, execution.... 11735-11737

CONSTRUCTION

- Statutes of Penal Code10710, 10711
- Words and phrases 10713
- in indictment or information.. 11850, 11851

CONTAGIOUS DISEASES

- See also Livestock
- Children infected not to be sent to industrial school 12503
- Exposing person infected with.. 11257
- Exposure of infected clothing... 11503
- Of animals with glanders 11263
- Removal of prisoners from county jail 12479

CONTEMPT OF COURT

- Criminal contempts defined 10944

CONTEMPTS

- Acts constituting criminal contempts 10944
- County attorney, failure to file information 11801
- Grand juror acting after challenge allowed 11815
- Jurors, refusal to dissent to verdict on polling 12033
- Mitigation of punishment for, when 11585
- Power to punish 11717
- Punishable also as crime 11584
- Resisting process 11656

CONTESTING ELECTIONS

- See Corrupt Practices Act..10803-10820

CONTINUANCE

- See Postponement11936-11940
- On application to dismiss action —See Dismissal 12224, 12225

CONTRACTS

- Illegal interest of public officers in, forbidden 10827

CONTRIBUTIONS

- Corporations and others forbidden, when 10790
- Soliciting from candidates forbidden 10789
- from other public officers forbidden 10785

CONVERSION

- By trustees and others is larceny 11382

CONVEYANCES

- See Fraudulent Conveyances... 11432-11435
- By convict 11602

CONVICTION

- Accomplice's testimony 11988
- Bar to subsequent prosecution, when11581, 12002

CONVICTION (Continued)

- Cause for challenge of juror..... 11958
- Codefendants 11862
- Corporation, fine, how collected... 12237
- Court to declare punishment, when 12028
- Defendants may be convicted of what crimes or attempts.... 11868
- Defense to second prosecution... 11612
- Degrees of crime, bar 12002
- Failure of defendant to appear for sentence, commitment... 12170
- For higher offense, effect of 11914
- Former, of offense included in subsequent charge, bar 11914
- plea, form of verdict 12020
- verdict on charge of 12023
- How had..... 11614
- Impeachment, nature of judgment what necessary11669, 11679
- In foreign state, effect 11583
- In other county, when bar 11720
- In other state, when bar..... 11719
- Judgment necessary for 11614
- removal from office 11699
- Jury may declare punishment... 12027
- Must be legal..... 11606
- Not to work forfeiture of property 11605
- Of what offense defendant may be convicted 11868
- On plea of guilty 11614
- One of several defendants may be convicted 11862
- Prior, form of plea 11908
- in foreign state, punishment... 11595
- of attempt, punishment 11594
- plea of 11907
- punishments 11593
- Procedure upon 12035
- Punishment without, forbidden.. 11606
- Reasonable doubt as to degree of crime 11972
- Upon verdict and judgment 11614
- What necessary for 11614
- When had on testimony of accomplice 11988

CONVICTS

- See also Jails
- See also Prisoners
- See also State Prison12434-12465
- Attempt to escape 10867
- Bringing before court of another county 12432
- Civil rights suspended 11600
- Commutation of sentence—See Pardons 12247-12266
- Competent witnesses, when..... 11603
- Conveyances by 11602
- Credit upon sentence for good behavior12455, 12456
- forfeiture of, when 12457
- Depositions, how taken 12198
- Employment of, how regulated.. 12447
- Escape from prison 10866
- Labor, how regulated 12446
- Officers permitting escapes..... 10869

INDEX TO PENAL CODE

CONVICTS (Continued)

On parole, status of	12264
to report, to whom	12265
Pardon of—See Pardons...	12247-12266
Parole of	12264
Person protected by law	11604
Persons assisting escapes..	10870, 10871
Removal of, for purpose of tes- tifying	12186
Restoration to citizenship	12263
Reward for apprehension of....	12415
Suit of clothes and money on dis- charge	12458
Unauthorized communication with	10949
Under protection of law.....	11604

COPIES

Indictment or information, trial on	11866
--	-------

CORONERS

Entitled to custody of bodies, when	11036
--	-------

CORONER'S INQUEST

Coroner to issue warrant, when..	12388-12391
to summon jury to inquire con- cerning deaths, when	12381
Inquest secret until after arrest.	12389
Jurors to be sworn	12382
Jury to be called, when	12381
Physician may be summoned...	12383
Testimony in writing, where filed	12386
exception to above rule	12387
Verdict of jury in writing	12385
contents	12385
Warrant of arrest when person present	12390
form of warrant	12392
how served	12393
when person absent	12391
Witnesses compelled to attend...	12384
to be subpoenaed	12383

CORONER'S JURY

See Coroner's Inquest	12381-12393
-----------------------------	-------------

CORPORATIONS

Appearance and plea in district courts	12236
Compulsory boarding-houses pro- hibited	11223
Contributions for political pur- poses forbidden	10790
Director defined	11458
Directors	
absent from meeting, when pre- sumed to assent	11452
present at meeting, when deemed to assent	11451
presumed to have knowledge of affairs	11450
Foreign corporations subject to law	11453, 11454
unauthorized agent, punishment	11455
Frauds in	
exhibition of false documents.	11439
issuance or disposal of stock...	11438
keeping account-books	11445

CORPORATIONS (Continued)

Frauds in (continued)	
procuring organization of	11439
publishing false reports	11446
false statement of concern..	11436
subscribing for stock of	11437
unauthorized use of name in prospectus	11440
Misconduct of directors of stock corporations, acts constitut- ing	11441
Noncompliance with law a mis- demeanor	11456
Officers to permit inspection...	11447
Proceedings against	
appearance and plea.....	12236
certificate of magistrate and return	12234
county attorney to file infor- mation, when	12235
default, when entered	12239
examination of charge, how conducted	12233
fine on conviction, how col- lected	12237
for violation of corrupt prac- tices act	10815
judgment, how entered.....	12239
magistrate to issue summons, when	12230
service of summons, when and how	12232
summons, form of	12231
on filing of information, issu- ance and service	12238
to issue, when	12230
Proof by reputation in criminal cases	11983-11985
Punishment for failure to comply with law	11456
agent liable, for noncompliance	11457
Railroad companies, officers con- tracting debt, when liable..	11448
Receiving deposits in insolvent banks	11443
Savings bank officers, overdraw- ing account	11442
Summons to, on filing of indiet- ment or information	12238
Validity of debts of railroad com- panies not affected by un- authorized acts of officers...	11449

CORPUS DELICTI

Proof of, necessary	10962
---------------------------	-------

CORROBORATION

Abortion, seduction, etc.....	11984
Accomplices	11988
Trial for false pretense	11987

CORRUPT PRACTICES ACT

See also Election Frauds and Of- fenses	10747-10772
Bets and wagers on elections for- bidden	10794
Business advertising, solicitation, when permissible	10789

INDEX TO PENAL CODE.

CORRUPT PRACTICES ACT (Continued)

Buttons and badges, use forbidden, when	10797
Campaign expenditures for nomination	
by party organization, limit of	10774
by relatives	10774
limitation of	10773
Candidate construed	10775
Certain payments for attending election and for services forbidden	10797
Certain payments of money forbidden	10802
Challenging voters, procedure	10792
Coercion or undue influence of voters forbidden	10793
Complaint, form of	10818
Contributions for certain officers forbidden	10785
from corporations and public utilities forbidden	10790
soliciting forbidden, when	10785, 10789
Convention credentials, transfer, when forbidden	10787
Corporations, procedure against for violation of act.	10815
Corrupt practices defined	10796
Criminal libel defined	10800
Definition of terms	10775
Election contests	
advancement of case	10817
bond	10813
certification of findings	10814
citation to contestee	10813
complaint, form of	10818
contents of petition	10813
corporations, proceedings against for violation of act.	10815
costs, by whom recovered	10813
county attorney, duty to prosecute	10808
court to declare person elected, when	10809
dismissal, when	10817
disqualification of candidates..	10807
electors may contest	10810
evidence	10814
grounds of contest	10810
illegal votes, allegations and evidence	10812
illegal votes, contests, accounts of, when authorized	10811
joinder of causes	10814
judgment to award costs	10814
lack of good faith must be shown	10803
precedence of actions	10813
privileges of witnesses	10817
removal from office, when	10804
when commenced	10805
where filed	10806
Election expenses—See subtitle statement of candidates' expenses	

CORRUPT PRACTICES ACT (Continued)

Forfeiture of nomination for violation of law	10803
Form of	
candidates' statement of expenses	10819
complaint in election contests.	10818
"Give" construed	10775
Names of candidates not to be printed until statement of expenses filed	10801
Newspapers and publishers, printing of paid matter, how regulated	10798
Paid political advertisements, how regulated	10798
Payment for	
accepting or declining nomination forbidden	10802
credentials forbidden	10788
refraining from candidacy forbidden	10789
transportation to polls forbidden, when	10797
Payments in name of undisclosed principal forbidden	10783
Penalty for false oath or affidavit	10820
violations not otherwise provided for	10816
Perjury, who deemed guilty of... ..	10820
Person construed	10775
Personation forbidden, penalty ..	10795
Political agent construed	10775
committee construed	10775
statement of expenditures by criminal libel defined, punishment	10800
Promise of appointment to office forbidden	10784
Public office construed	10775
officers not to contribute to funds	10785
prohibited from acting as delegates or committees..	10786
speakers, when exempt from act	10775
Punishment for violation of act..	10804
Receiving money for becoming candidate forbidden	10802
criminal proceedings, how instituted	10802
Solicitation of certain contributions from candidates forbidden	10789
from public officers forbidden..	10785
of voters on election day forbidden	10799
Statement of candidates' expenses	
by political committees	10777
filed, when and where.....	10777
penalty for failure to file....	10776
time for filing	10776
candidates must file, when... ..	10776
complaints, contents, oath and filing	10779

INDEX TO PENAL CODE.

CORRUPT PRACTICES ACT (Continued)

Statements of candidates' expenses (continued)	
contents of statement	10776
copies of act to be furnished, whom	10778
copies to be furnished, when..	10782
court may compel filing of statement	10781
demand for statement, when made	10779
form of	10819
inspection of accounts	10779
jurisdiction of actions for violation	10781
names not to be printed on ballot until filed	10801
penalty for failing to file	10776
preservation of	10782
prosecution for failure to file..	10780
Tickets, sale to candidate, when forbidden	10789
Transportation to polls, payment, when forbidden	10797
Treating by candidates forbidden	10791

CORRUPTLY

Definition	10713
------------------	-------

COSTS

Expense of trial for escapes....	10872
Extradition, how paid	12427
Fines and forfeitures to be applied	12433
Fines and payment, duration of imprisonment	12069
Judgment for, alien	12073
Judgment that prosecutor pay, when rendered	12070
Prosecutor to pay in justices' courts, when	12330
judgment against prosecutor..	12331
Prosecutor to pay judgment, execution on	12070
Removal from office	11702
Taxed against complainant, when	11650

COUNSEL

See also Attorneys-at-Law	
Appointment by court to defend accused, when	11886
in impeachment proceedings...	11675
Argument by—See Argument	
Compensation when appointed by court	11887
Defendant to be informed of right to, by magistrate	11773
For defendant, duty to send for.	11774
May comment upon what in argument	11969
Right to, on arraignment	11886
visit defendant on arrest	11744

COUNTERFEITING

See Forgery and Counterfeiting.	
.....	11355-11367

COUNTERFEITING (Continued)

Trademarks	11199
destruction of	11207
selling goods bearing	11200

COUNTIES

Expense of	
committing to reform school...	12504
removal of prisoner to testify.	12186
transportation of insane defendant	12219
trial for escape from prison...	10872
witness outside of	12182
Insurrection, proclamation	11666, 11667
Jails at county seats	12466
towns other than county seats.	12467
Payment of attorney appointed to defend	11887
Public moneys, wrongful acts....	11318
Taking prisoners from one to another, before court	12432
To provide accommodations for jury	12009, 12010

COUNTS

In indictment or information....	11847
----------------------------------	-------

COUNTY ASSESSORS

Refusal to furnish list of property	11323
false statement to	11324

COUNTY ATTORNEY

Abatement of public nuisances	
by, when	11123-11133
Attendance on grand jury	11829
Comment on defendant's failure to testify	12177
Destruction of obscene literature	11139
Disclosing finding of indictment.	10946
Duty	
as to branding of livestock while driven through state..	11547
as to lotteries	11155
on insanity of defendant after judgment of death.....	12096
prosecution for gambling.....	11169
of undertaking to keep the peace	11648
unlawful use of firearms by children	11566
to	
explain reason for failure to file information	11803
file information, when and where	11801, 11802
inquire concerning public offenses	11802
investigate and prosecute violations of prohibition law.	11109-11115
prosecute charge of bastardy	12271
Failure to file information, contempt	11801
prosecute, court may appoint..	12007
Filing of information, when....	11626
Information, duty to file, when..	11626
Intoxicating liquors, duty concerning — See Intoxicating	
Liquors	11048-11133

INDEX TO PENAL CODE.

COUNTY ATTORNEY (Continued)

May appear before grand jury, when	11829
May issue subpoena	12179
Not to disclose filing of information, when	11867
Notice to, of arrest of fugitive from other state	12423
Procedure on failure to attend trial	12007
Removal from office, procedure..	11701
Signing of indictment	11838
Statement to governor on application for pardon	12260

COUNTY BOARD OF HEALTH

Powers concerning destruction of confiscated liquor—See Intoxicating Liquors	11048-11133
---	-------------

COUNTY COMMISSIONERS

Bribery of	10943
Contract with state for confinement of convicts	12459
Duties as to county jail	12486
Duty to provide detention homes	12297
Jails at towns other than county seat	12467
May require prisoners in jail to labor	12484
Rules for labor by jail prisoners.	12485
Sheriff to report to, on jail.....	12487

COUNTY JAILS—See Jails.12466-12487

Used by state prison, when.....	12459
---------------------------------	-------

COUNTY TREASURER

Fines collected by justice, payable to	12347
Payment of fines and forfeiture to	12433
Sale of unclaimed stolen property	12244

COURT-MARTIAL

Authority not affected by code..	10717
----------------------------------	-------

COURTS

See also District Courts	
See also Justice and Police Courts	
See also Supreme Court	
Appoint to perform duties of county attorney, when.....	12007
Assess punishment, when.....	12023, 12029, 12030
Commitment of girls to vocational school, procedure.12535,	12536
Criminal, contempt of	10944
Destruction of gambling devices.	11167
Duty to assign counsel for defendant, when.....	11886
compensation of attorney, how fixed	11887
Duty to determine degree of crime, when	12056
False report of proceedings	10944
Justice courts—See Justice and Police Courts	12302-12347
May adjourn absence of jury	12016
advise jury to acquit, when....	11995
order sheriff to furnish room for jury	12009

COURTS (Continued)

Must pass sentence, when	10718
Police courts—See Justice and Police Courts	12302-12347
Power to punish contempts	10717
Prisoners, how produced before...	12432
Punishment, power to reduce....	12031
To appoint time for pronouncing judgment	12055
decide questions of law, when..	12001-12004

COWS

Keeping in unhealthy place, punishment	11513
--	-------

CREDIBILITY—See Witnesses

CREDIT

False statement to obtain, penalty	11408
--	-------

CREDITORS

Conveyances to defraud....	11432-11435
----------------------------	-------------

CRIME

Accessories to, defined	10733
Act and intent	10726
Classification of	10722
Commission under threats	10729
Compounding	10931
Compromise, when permissible, when not	12220, 12222
Criminal negligence	10726
Definition	10721
Degrees, of what defendant may be convicted under information	11868
jury to find	12022
Divided, how	10722
Drunkenness no excuse	10728
Forfeitures abolished	11605
How prosecuted	11607, 11798
Intent, how manifested	10727
Lawful resistance	11632
Parties to	10731
Persons capable of committing...	10729
Principals	10732
who are	10732
Prosecution, agreement to abstain from	10931
Punishment—See Punishment	
Resistance, by whom and to what extent	11633, 11634
Union of act and intent to constitute	10726
Who capable of committing, who not	10729

CRIME AGAINST NATURE

Act constituting	11031
Punishment for	11030

CRIMINAL ACTIONS

Conviction, how had.....	11614
Defendant, who is	11610
Defined	11608
Dismissal of, when—See Dismissal	12223-12229

INDEX TO PENAL CODE.

CRIMINAL ACTIONS (Continued)

Gambling devices, for destruction of	11167
How commenced in justice or police court	12302
How prosecuted	11609
in district courts	11622
in justice courts	11621
How set for trial	11940
In justice and police courts, how prosecuted	11621
Parties to	11609
Prosecution by information, when	11623
Rights of defendant	11611
Rules of evidence applicable.....	11977
Rules of pleading—See Pleadings	11841-11874
Second prosecution prohibited...	11612
Time of commencement—See Limitations of Actions.....	11722-11727
Undertakings, actions on	12164
Witnessing against self not compelled	11613

CRIMINAL CONSPIRACY

See also Restraint of Trade.....	10901-10915
Defined	10898, 10899
Overt act, when necessary.....	10900

CRIMINAL CONTEMPTS

What constitute	10944
-----------------------	-------

CRIMINAL LIBEL

Acts constituting	10800
-------------------------	-------

CRIMINAL NEGLIGENCE

When necessary to crime	10726
-------------------------------	-------

CRIMINAL OFFENSES

Abandonment and neglect of wife and children.....	11017-11022
Abduction of women	11004
Abortion	11023
Abuse of teachers	11527
Acting as public officer without qualifying	10821
Adding to or subtracting from votes	10755
Adulterated candies, sale of	11265
Adulterated food, drugs and liquors, forbidden	11241
Adultery	11006
Advertisements of cures of venereal diseases prohibited.....	11144-11147
Advertising to procure divorce ..	11564
to produce miscarriage	11142
Agents of foreign corporations punishable, when	11455
Aiding apprentices to run away.	11520
or abetting escapes from industrial school	12510, 12511
suicide	12261
Altering brands	11211
telegraphic messages	11495
Arms, militia selling or retaining	11332, 11333

CRIMINAL OFFENSES (Continued)

Arrests, making without authority	10921
Arson—See Arson	
Assaults—See Assaults	10976-10980
by public officers under color of authority	10929
Assisting prisoners to escape.....	10870, 10871
Assumption of public office without right	10821
Attachment of dead body.....	11037
Attempts to escape from state prison....	10867
to wreck railroad train ..	11469-11471
Attorneys-at-law, misconduct by	10933-10940
Auctioneers, acting as, without authority	11329
failure to record sales of stock ..	11541
Automobiles, possession when parts have been removed ...	11479
punishment for selling or disposing of	11480
Automobiles, use without owner's consent	11478
Ballots forging returns	10754
unfolding or marking	10753
Banks receiving deposits when insolvent	11443
officer overdrawing account... ..	11442
Barbed-wire fences, broken	11557
Barber business, conducting on Sunday	11040, 11041
Barratry	10936
Betting on elections	10767
Bigamy	11025-11027
Bill of lading, issuance of fraudulent duplicate.....	11462
Billiard and pool halls, permitting minors to enter	11191
violation of law governing.... ..	11188-11192
Blacklisting	11219
Blackmail, acts constituting	11397
Board of examiners, violation of laws concerning	11331
Boarding-houses, compulsory forbidden	11223
Boiler explosions, negligence	11229
Boiler inspector, false certificate of	11198
Boxing or wrestling matches....	11296
Branding cattle running at large.	11553
Brands, alteration forbidden	11211
criminal statutes regulating use of	11542-11548
sash or frying-pan, use of.....	11554
Bribery judges, jurors and referees	10853
members of the legislature—See Legislative Assembly....	10838-10852
members of political convention ..	10764
public officers	10842

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Con- tinued)

Bribery (continued)	
school officers	10862
telegraph operators	11519
Bribes, receipt of, by executive officers	10824
receipt of, by judicial officers..	10854
solicitation by judicial officers .	10855
Bribing of boards of county commissioners	10943
Bribing witnesses	10896, 10897
Bridges, dams and reservoirs, malicious destruction of	11487
Bringing armed men into state ..	11315
Burglary—See Burglary....	11346-11353
Burning buildings, when not arson	11476
of insured property.....	11426, 11427
Buying appointments to office..	10829
Campfires, negligent control of..	11500-11502
Carcasses, leaving near dwelling	11532
Carriers, issuing fictitious bills of lading	11459
Carrying concealed weapons—See Weapons	11302-11309
Carrying concealed weapons with intent to assault	11354
Carrying on business without license	11328
Cattle, driving from customary range	11549
Certificates of nomination, altering or forging, penalty	10758
Cheats in assaying	11420
Children	
cruelty to	11022
desertion or abandonment of..	11020
disposing of, for mendicant occupations	11021
fraudulent pretenses relative to birth of	10934
substituting one for another ..	10935
Coal slack, deposit in streams....	11276, 11277
Combinations in restraint of trade	10901-10915
Communication with convicts....	10949
Compounding crimes	10931
Concealment of person entitled to habeas corpus	11217
Confidence games	11411
Connivance at escapes from vocational school for girls	12543
Consignee, false statement by....	11415
Convicts, unauthorized communication with	10949
Corporations, fraud in management—See Corporations ..	11436-11458
noncompliance with law by agents	11456, 11457
refusal to permit inspection of books	11447
Corrupt conduct of jurors	10857
lobbying	10846

CRIMINAL OFFENSES (Con- tinued)

Corrupt conduct of jurors (continued)	
practices act, violation of—See Corrupt Practices Act..	10773-10820
practices as to legislators	10852
Counterfeiting—See Forgery and Counterfeiting	11355-11367
of trademarks	11208
Crime against nature	11030, 11031
Criminal conspiracy	10898, 10899
contempts	10944
syndicalisms	10740-10742
Cruelty to animals—See Cruelty to Animals	11508-11515
children	11022
lunatics	11214
Cutting state timber	11507
Dams and reservoirs, violation of laws governing	11280
Dead, failure to bury.....	11035
animals, disposal, where forbidden	11235
bodies, offenses respecting—See Sepulture	11032-11038
Deadly weapons, exhibition and use of	11299
Death from mischievous animals, punishment of owner	11260
Deceiving witnesses	10892
Defacing logmarks	11210
public buildings	11506
tombs or monuments.....	11038
Defendants concealing property.	10933
Defined	10721
Defrauding by false pretenses..	11410
Delay in taking prisoner before magistrate	10920
Delivery of unauthorized polltax and other receipts	11325
possessing unauthorized blank receipts	11326
Depositing slack in streams....	11277
Desertion of children	11020
Destruction of	
ballots, etc.	10749-10758
dams and canals	11487
election supplies	10760
evidence	10894
fences	11485
landmarks	11484
records	10874
by officers	10873
Disclosing	
contents of telegram	11494
finding of indictment	10946
indictment before arrest	11867
Diseased animals permitted to run at large	11556
carcasses, sale of, forbidden...	11243
Disinterment of bodies for dissection	11033
Disposition of children for mendicant purposes	11021
Disturbance of public meetings..	11284
of electors	10766

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Con- tinued)

Disturbing legislative assembly..	10835
religious meetings	11042
the peace	11297
Ditches, permitting to overflow highways	11531
Divided, how	10722
Dogging livestock	11552
Driving animals on sidewalks....	11504
cattle on railroads	11555
over bridges faster than a walk	11252
Druggists, omission to label drugs	11238
Duels—See Duels	10981-10987
Eight-hour law, penitentiary guards	12442
Election frauds	10747
Election frauds and offenses—See Election Frauds and Offenses	10747-10772
see also Corrupt Practices Act.	10773-10820
Election wagers	10767
Electric lines, interference with..	11473
Embezzlement by public officers..	11318
what constitutes	11318
Embracery	10858
Employees, protection on dis- charge	11219
false representations to procure labor	11220, 11221
Employers requiring release of liability	11402
False discounting wages of em- ployees	11403
Enticing to place of gambling or prostitution	11143
Escapes—See Rescues and Es- capes	10864-10872
Executors, administrators and guardians, failure to file re- port	10918
Exercising functions of office wrongfully	10831
Exhibiting deadly weapons	11299
Exhibition of deformities	11262
Explosives, destruction of build- ings by	11477
manufacture or sale for wrong- ful use	11281-11283
Exposing infected clothing	11503
person affected with contagious disease	11257
Extortion, acts constituting—See Extortion	11389-11405
by judicial officers	10855
by public officers	10826
Fakers, punishment of	11425
False advertising	11422-11424
assay, publishing	11421
certificate by public officers....	10945
imprisonment	10921, 10988
meters, use of	11387
pedigree of animals.....	11417, 11418
personation	11407
pretenses	11410

CRIMINAL OFFENSES (Con- tinued)

False (continued) return of marriage	11213
statement as to assessment....	11324
statements by commission mer- chants, brokers, agents and factors	11415
statements respecting financial condition	11408
weights and measures.....	11240, 11428-11431
Falsification of evidence—See Evidence	10891-10897
Fences maintenance of unlawful and dangerous	11557
malicious destruction of	11485
Fictitious warehouse receipts....	11460
Fire, obstructing attempts to ex- tinguish	11251
Firearms, shooting within city....	11530
use by children	11565, 11566
Fire departments, false certifi- cates of exemption by.....	11526
Flag, desecration of	11562
Food, destruction in restraint of of trade	10914, 10915
disposal when tainted	11242
Forceful entry and detainer	11300
Fords, obstructing near ferry....	11529
Foreman, soliciting gifts	11404
Forgery—See Forgery and Coun- terfeiting	11355-11367
of trademarks	11199
Forging election returns	10754
Fornication	11006
Fortune tellers, etc.	11522-11524
Fraudulent altering of enrolled bills..	10836, 10837
bills and claims by public offi- cers	10828
conveyances	11432-11435
issuance of corporate stock....	11438
practices to affect market price	11258
registration or voting....	10748, 10749
sale or concealment of property by debtor	10932
subscription for stock	11437
voting or registering	10750
Furnishing tools to aid in escape from vocational school for girls	12544
Gambling	11159
Gas and water pipes, breaking or obstructing	11499
Gates, leaving open	11528
Giving false information for pub- lication	10999
statement to county assessor..	11323
Giving or offering bribes to execu- tive officers	10823
Grand juries, disclosure of facts transpiring before	10947
Grand juror acting after chal- lenge allowed	10942
Grand larceny	11371

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Continued)

Guideboards and milestones, malicious injury to	11465
Habeas corpus, violation of law concerning	11215-11217
Health laws, punishment for violation	11236, 11237
Herders, abandonment of sheep by	11550
Highways, malicious injury to ..	11464
Holding up trains	11468
Homicide—See Homicide	
Horses, taking up without owner's consent	11551
with glanders, sale prohibited.	11263
Hospitals, discrimination by....	11577, 11578
Hotels	
punishment for defrauding....	11579
refusal to receive guests.....	11218
service of adulterated foods....	11245, 11246
Imitation cheese, sale without label	11250
Improper influencing of jurors ..	10856
Incest	11029
Indecent exposures and exhibitions	11136-11139
Indians carrying firearms off reservation	11314
Infectious diseases, exposing persons afflicted	11257
Inhumanity to prisoners	10922
Injuries to	
gas and water pipes.....	11499
jails	11486
milestones	11465
standing crops	11481-11483
surveyor's monuments	11490
telegraph lines	11466
trees or improvements	11497
Injuring	
books in public libraries	11498
buildings by explosives.....	11477
exhibits at fairs	11498
fences, building fires and hunting on premises of another, when forbidden	11482
ornamental improvements within cities	11497
Inspection, by revenue officers, refusal to permit	11330
of mines	11280
Insurance, destroying property and false proof of loss.11426,	11427
Interference with canals	11467
election officers	10749
Intoxicating liquors—See Intoxicating Liquors	11048-11133
medicinal use, violation of act concerning	11099
Intoxication of railroad employees	11253
Intrusion into office	10831
Issuing fictitious bills of lading..	11459
Jails, destroying or injuring....	11486

CRIMINAL OFFENSES (Continued)

Jurors and referees, bribery and misconduct	10856-10859
Jury-lists, adding names to.....	10876
falsifying	10877
Justices and constables, interest in judgment forbidden.....	10860
keeping or residing in house of ill-fame	11140, 11141
Kidnaping	10970
Killing and poisoning livestock..	11512-11515
Killing animals by railroads ...	11278
Labor unions, unlawful use of name	11209
Landmarks, removing, defacing or altering	11484
Larceny, acts constituting—See Larceny	11368-11388
Larceny of records by other than public officers	10874
Legislative and political caucus, bribery of members	10764
Legislative assembly, offenses by and against—See Legislative Assembly	10834-10852
Letters, opening or publishing when sealed	11493
Letting buildings for lotteries... 11156	
for boxing-matches	11296
Lewd and lascivious acts upon children	11005
Libel—See Libel	10989-10999
Licenses, doing business without.	11328
Liquor laws, violation of	11075
Livestock, control of diseases—See Livestock	11533-11540
malicious killing or injury....	11515
trespass, when forbidden.11225-11228	
Logs, defacing marks upon	11210
permitting to accumulate along shore of navigable lake.11574-11576	
Lotteries—See Lotteries ...11149-11158	
Magistrate refusing to disperse rioters	11291
Maintaining nuisance in violation of intoxicating liquor laws..	11066
Malicious injury to	
freehold	11481
highways and bridges	11464
telegraph, telephone and electric-light lines	11466
Malicious procuring of warrant for arrest	10948
spiking of sawlogs	11505
Manslaughter—See Homicide ...	10959-10966
Markets, fraudulent practices to effect	11258
Marking ballots for identification	10760
Marriage, solemnizing forbidden.	11212
false record of	11213
Married persons selling land under false representations....	11413

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Continued)

Marrying husband or wife of another	11028
under false personation	11406
Mask or disguise, wearing, when prohibited	11571
Maxim silencers, manufacture or sale for wrongful use	11281-11283
Mayhem	10968, 10969
Militia, unlawful possession of arms belonging to	11332
unlawful sale of arms by member of	11333
Mines, false pretenses in selling safety provisions regarding—See Mines and Mining	11267-11275
violation of law governing	11280
Minors, admission to houses of prostitution	11046
giving obscene literature to	11134, 11135
sale of tobacco to	11047
Misconduct of attorneys	10938
officers in charge of jury	10859
Mismanagement of steam-boilers	11195
Misprision of treason	10736
Mock auctions, obtaining property by	11414
Money, using or circulating unauthorized	11525
Mortgaged property, sale or removal to defraud	11416
Moving picture portrayal of crimes	11567
Moving scabby sheep	11533
Murder—See Homicide	10953-10958
Mutilation of written instruments	11492
of dead bodies	11032
Notices, destruction of	11491
Obstructing	
firemen	11251
mine shafts and tunnels	11580
navigable rivers	11489
revenue officers	11322
state veterinary surgeon	11540
Obtaining property by false pretenses	11410
Offer to appoint to office	10762, 10763
Offering false evidence	10891
false instruments for record	10875
Offering forged instruments for record	10875
Officers	
asking and receiving bribes	10824
falsifying jury-list	10877
illegal interest in contracts	10827
neglect of duty as to gambling	11171
permitting escape	10869
receiving bribes	10854
refusing to arrest	10916
wilful omission of duty	10950
Oleomargarine, sale without label	11248
Omission of duty by public officers	10950
Opening sealed letters	11493
telegrams	11496
Opium, keeping or resorting to place where used	11045
unlawful sale of	11239

CRIMINAL OFFENSES (Continued)

Oppression and injury by public officers	10952, 11394
Ore, changing samples for assay	11420
false samples of	11421
Overflowing ditches and flumes	11531
Owner of trespassing livestock	11226
Partner of county attorney defending suit	10940
Pawnbrokers—See Pawnbrokers	
	11184-11187
Perjury—See Perjury	10878-10890
Personating officers forbidden	10926, 10927
Pesthouses in city limits	11234
Petit larceny	11374
Physicians' acts while intoxicated	11193
Placing passenger cars in front of freight cars	11254
Poisoning food or water	11194
Police protection of gambling	11172
Polltaxes, improper receipt	11325
Poolhalls, violation of law governing	11188-11192
Pooling by public warehouses	10912, 10913
Possession of	
burglarious instruments	11353
counterfeit coins	11364
deadly weapon with intent to assault	11354
gambling implements	11160
improper tax or license blanks	11326
Preparing false evidence	10893
Presenting false claims by officers	10828
Preventing legislature from meeting	10834
public meetings	10765
witnesses from testifying	10895
Prisoners, threatening or torture	10923, 10924
Prison-made goods, marking of	11573
Prizefights, promoting or attending	11293, 11294
leaving state to engage in	11295
Procuring execution of innocent person by perjury	10890
Prohibition of sale of intoxicating liquors—See Intoxicating Liquors	11048-11133
Promoting fights between animals	11514
Prostitution, regulation of—See Women	11008-11016
Public administrator, failure to perform duties	10917
libraries, destroying books in	11498
moneys, wrongful acts concerning	11318
nuisances—See Public Nuisances	11231-11235
Public officers	
acting without qualifying	10821
delay in taking persons arrested before magistrate	10920
interest in contracts	10827

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Con- tinued)

Public officers (continued)	
neglect to pay over fines.....	11321
neglect to pay over money....	11319
Public meetings, prevention of..	10765
Punishment, general regulation of	
—See Punishment	11581-11605
when not otherwise prescribed	10951
who to impose	10718
Races, unlawful entries in.....	11559
name and class of horse to be	
indicated	11560
Racing bets	11180-11183
Rafts and woodpiles, burning or	
injuring	11488
Railroad companies, officers con- tracting excess debts	11448
Railroads	
liability of employers for death	
from negligent collision	11230
malicious injury to property..	
.....	11468, 11469
penalty for killing livestock..	11278
placing passenger cars before	
freight	11254
receiving illegal fares	11401
removal of waste or packing	
from locomotives	11472
violation of duty by employees	11255
duty by roads.....	11256
regulations governing	11279
wrecking trains	11468, 11469
Rape	11000-11003
Real property, selling twice.....	11412
Receiving	
fees for service in arresting	
fugitives	10919
fraudulently-conveyed property	11434
property in false character....	11409
stolen property	11388
Red flag, exhibition of	10745, 10746
Refilling casks bearing trade- marks	11203
Refusal of public officers to re- ceive persons arrested	10916
Refusal to	
aid officers in arrests	10930
disperse on lawful command...	11290
give names of employees for	
taxation	11327
kill animals having glanders...	11264
list property for taxation....	11323
obey habeas corpus	11215
pay over fines	11321
pay over public moneys	11319
pay wages without discount...	11403
permit inspection of books of	
revenue officers	11330
receive guests or passengers...	11218
surrender books to successor...	10832
Removal, of mortgaged property.	11416
packing from machinery.....	11472
Rescuing prisoners—See Rescues and Escapes	10864-10872
Resisting executive officers.	10825, 10928
process when county in state	
of insurrection	11292

CRIMINAL OFFENSES (Con- tinued)

Resisting executive officers (con- tinued)	
public officers	10928
Restraint of trade—See Restraint of Trade	10898-10914
Retaking goods from custody ..	10865
possession of lands after lawful	
removal	11301
Returning to take possession of	
lands after eviction	11301
Rioters, failure to disperse	11290
Riots	11286
Robbery	10973-10975
Routs	11287
Running at large of diseased live- stock	11556
Sabotage	10741, 10742
Sale of	
adulterated candies	11265
animals affected with glanders.	11263
firearms to Indians	11259
mines under false pretenses...	11419
spoiled foods	11242
tobacco to minors	11047
Scab	
disobeying orders of state vet- erinarian concerning	11535
moving animals affected with..	
.....	11536, 11537
Scabby animals, shipping into	
state	11534
School teachers, abuse of	11527
School trustees, bribery forbidden	10862
Sedition	10737-10740
Seduction	11007
Selling land twice	11412
Selling merchandise at camp- meetings	11043, 11044
Selling property received for stor- age or transportation	11463
Serving adulterated foods with- out notice to consumers....	11246
Setting adrift boats and rafts...	11488
Setting fire to timber and grass..	
.....	11500-11502
Sheep, control of diseases—See Livestock	11533-11540
Sheriffs, false representation of	
accounts	11334
Slaughtering diseased animals...	11243
Smoking opium	11045
Solicitation or bribe of officers...	10843
Soliciting persons to visit gam- bling resorts	11163
Stealing rides upon cars....	11568-11570
Steam-boilers, death from neglect of	11229
punishment for mismanage- ment or operation without license	11195-11198
Submitting to attempts to pro- duce miscarriage	11024
Subornation of perjury	10889, 10890
Substitution of infants	10935
Suicide, aiding or advising	11261
Sunday law	11039

INDEX TO PENAL CODE.

CRIMINAL OFFENSES (Continued)

Superintendents, solicitation of money from employees	11404
Taking rewards for appointment to office	10830
Taxation	
false statement, not under oath, concerning	11324
refusal of employers to furnish names of employees	11327
Telegrams, offenses concerning	11494-11496
see Telegrams	11516-11519
Third degree methods, practice of	10923, 10924
Threats, criminal when — See Threats	11398-11400
Toy pistols and caps, sale of — See Pistols	11310-11313
Trademarks—See Trademarks	11199-11209
Trainmen intoxicated on duty	11253
violation of duty by	11255
Treason and misprision of	10735, 10736
Treating electors	10791
Trespass on state lands	11507
upon public property	11335
exceptions	11336
Trusts in restraint of trade	10901-10915
Uniforms, wearing without authority	11558
Union label, counterfeiting	11204, 11205
United States surveyors' monuments, injuries to	11490
Unlawful assembly	10743, 10744, 11288, 11289
magistrate neglecting to disperse	11291
remaining after order to disperse	11290
Unlawful issuance of money	11525
Unsafe doors to public buildings	11266
Use of unsafe boilers	11197
Vagrancy	11521
Vessels, setting adrift	11488
Violating sepulture—See Sepulture	11032-11038
Votes, adding or subtracting returns, alteration of, penalty	10755
Voting, fraudulent	10750, 10751
Warrants, malicious procuring of	10948
Water, taking from or obstructing canals	11467
Weights, increasing of articles sold in packages	11240
Wilfully causing collisions	11230
Witnesses failing to attend before legislature	10845
preventing attendance of	10895
receiving bribes	10897
Witnessing prizefights	11294
Women	
regulation of prostitution and immoral transportation and use of—See Women	11005-11016
transportation for immoral purposes	11008

CRIMINAL OFFENSES (Continued)

Wrecking trains	11468-11471
Written instruments, injury to	11492
Written threats, sending of	11398
Wrongful appointment of deputies	10830

CRIMINAL SYNDICALISM

Defined	10740
Penalty	10742, 10743

CROPS

Burning grain, penalty for	11476
Injuries to, when standing	11483
malicious injury to	11481

CROSS-EXAMINATION

On preliminary hearing	11779
------------------------------	-------

CRUELTY

Lunatics and insane, treatment of	11214
To children	11022
To prisoners	10922-10924

CRUELTY TO ANIMALS

Abandonment of disabled animals	11509
Acts constituting	11508
Carrying in a cruel manner	11511
Cows, keeping in unhealthy place	11513
Failure to provide food and drink when impounded	11510
Malicious killing or maiming	11515
Overloading or driving	11508
Poisoning animals	11512, 11515
Promoting fights between animals	11514

CUSTODY

Rescue of prisoners from	10864
Retaking of goods from	10865

DAIRIES

Keeping cows in unhealthy places	11513
--	-------

DAMAGES

Exemplary, for loss of money at gambling	11173, 11174
For injuries to intoxicated person	11065
Recoverable, though not specified	10715
Recovery for injury by	11065
survival of action	11065
To person entitled to writ of habeas corpus, when	12380
To state property, civil action	11335
Witness liable to, for disobeying subpoena	12184

DANCEHALLS

Opening on Sunday prohibited ..	11039
---------------------------------	-------

DE FACTO OFFICERS

Validity of acts	10822
------------------------	-------

DEAD ANIMALS

Disposal of carcasses, where forbidden	11235
--	-------

DEAD BODIES

Arresting or attaching forbidden ..	11037
-------------------------------------	-------

INDEX TO PENAL CODE.

DEAD BODIES (Continued)

Offenses concerning—See Sepul-
ture11032-11038

DEADLY WEAPONS

See also Weapons11302-11309
Defendant to be searched before
magistrate 12414
Possession with intent to assault 11354
To be taken from person arrested. 11763
Unlawful exhibition and use of.. 11299

DEATH

Boiler explosions 11229
By carelessness of druggist, felony 11238
Civil sentence to imprisonment,
when11601, 11602
Collisions on railroad 11230
From duel, punishment..... 10982
From vicious animals, felony 11260
Judgment, how executed—See
Execution of Judgment. 12093-12104
Offenses punishable by, not bail-
able, when 12135
Penalty for procuring execution
of innocent persons by per-
jury 10890
Punishment for murder of first
degree 10957

DEBTORS

Concealment by, effect of..10932, 11435
see also Fraudulent Convey-
ances11432-11434
Judgment, concealment of prop-
erty 10933

DEBTS

Contracting by railroad officers
forbidden, when11448, 11449

DECEIT—See Frauds

DECISIONS

Deemed excepted to, when..... 12038
On matters of law deemed except-
ed to, when 12039

DEFACING

See also Alteration
Log marks, penalty 11210

DEFECTS

Nonprejudicial, to be disregarded 11874

DEFENDANT

Admission to bail—See Bail
Appeal, right of12105, 12107
Arraignment of—See Arraign-
ment11875-11890
Arrest of—See Arrests
Arrest, by bail, for surrender,
when 12158
restraint to which to be sub-
jected 11752
upon filing information 11626
Bail—See Bail
Clerk to issue blank subpoenas to 12179
Commitment, how made and to
whom delivered 11789
on appearing for trial, when... 12006

DEFENDANT (Continued)

Committed on postponement of
trial or examination, when.. 11776
Competency as witness, effect of
testimony 12177
Concealment of property 10933
Conviction only upon verdict and
judgment 11614
remanded to custody 12035
Counsel to be procured, how and
when 11774
Credibility, jury to be judge.... 12177
Damages to, on failure of witness
to attend 12184
Defined 11610
Depositions of witnesses impris-
oned 12198
rights of 12193
Discharge, facts not constituting
offenses, procedure 11994
lack of jurisdiction 11991
on commitment by justice, how
12333
on examination, when 11785
on reversal of judgment..... 12129
to testify for codefendant, when
11975
to testify for state, when..... 11974
upon acquittal 12034
Examination, when to proceed.. 11775
Fraudulent concealment of prop-
erty by 10933
Grand jury need not hear evidence
of 11824
How arraigned for judgment 12064
How produced for judgment when
on bail 12059
bench-warrant to issue, when.. 12060
In criminal actions 11610
rights of 11611
In custody, how produced for
judgment 12058
In justice's court, admissible to
bail 12342
Insanity, inquiry concerning—See
Insanity12213-12219
verdict of, procedure 12036
Joinder for loss of money at gam-
bling 11173
Justices' courts, presence..... 12316
Magistrate to inform of right to
counsel 11773
of charge against 11773
May be committed on appearance
for trial 12006
be discharged to become wit-
ness11974, 11975
send for counsel on examination 11774
Money, etc., taken from, on ar-
rest, receipt 12245
Must appear in person for verdict,
when 12018
Need not appear in appellate
court 12124
Not compelled to testify..... 12177
Out of state, effect on time for
commencement of action.... 11725
Party prosecuted 11610
Party to special proceeding 12429

INDEX TO PENAL CODE.

DEFENDANT (Continued)

Plea oral in justices' and police courts	12305
Pleadings allowed to	11896
Presence at sentence	12057
at trial	11931
at trial in justice court	12316
at verdict	12018
not required on appeal	12124
Presumption of innocence	11971
Procedure on acquittal on grounds of insanity	12036
upon conviction	12035
Punishable on legal conviction only	11606
Restraint before conviction	11613
Right to examination of witnesses in presence	11779
Right to speedy public trial....	11611
Rights of defendant in prosecution	11611
Sanity, proceedings concerning— See Insane Persons....	12213-12219
Second prosecution prohibited, when	11612
Show cause why judgment should not be pronounced	12065
Surrender by bail, when and how	12157, 12162
Time to prepare for trial	11935
To be searched for weapons, etc., before magistrate	12414
True name, justices' courts.	12309, 12310
Waiver of preliminary examination	11797
Warrant of arrest to specify name	11734
When and how committed on preliminary examinations	11786
order for, to sheriff	11787
When and how discharged on preliminary examination	11785
When committed on appearance for trial	12006
Witness against himself	11613
Witnesses for, to be produced and sworn, when	11780

DEFENSE

Acquittal or conviction as.....	11581
in foreign state	11583
Insanity, verdict of, procedure...	12036
Kidnaping, consent of person injured	10972
Larceny	11384
Once in jeopardy	11612
Perjury	10883-10885
Truth, in prosecution for libel...	10992

DEFINITIONS

See also specific main titles	
Of terms used in Penal Code....	10713

DEFORMITIES

Exhibition prohibited	11262
-----------------------------	-------

DEFRAUDING

Obtaining property by false pretenses	11410
---	-------

DEGREES

Of crime of which conviction may be had	11868
jury must find.....	12022

DELINQUENT CHILDREN

See Juvenile Delinquents..	12275-12301
----------------------------	-------------

DEMURRER

Defendants discharged when re-submission ordered	11903
Ground of, to indictment or information	11898
How interposed	11899
If allowed, bar to another prosecution, when	11902
Judgment on	11901
Must specify grounds	11899
On impeachment proceedings....	11676, 11677
On proceedings to remove from office	11692, 11963
Pleading of defendant	11896
Proceedings	
if disallowed	11905
if resubmission ordered.....	11904
What objections not waived	11906
What objections taken by.....	11906
When and where put in	11897
When heard	11900

DEODAND

Forfeitures in nature of, abolished	11605
---	-------

DEPOSE

Definition	10713
------------------	-------

DEPOSIT

In lieu of bail	12154
exoneration of bail by	12155
forfeiture, to whom paid	12166
how applied	12156
Receiving when bank insolvent..	11443, 11444
Return of, on surrender of defendant	12159

DEPOSITIONS

Defectively entitled, when valid.	11873
How authenticated in homicide cases	11783
On application for search-warrant	12397, 12398
When complete, for purpose of perjury	10886
Witnesses in state	
affidavit for	12189
defendant or state may apply for	12187
magistrate to take	12192
material witnesses, deposition, how taken	12188
notice of application	12190
on commitment of defendant..	11794, 11795
order to take	12191
prisoners, how taken	12198

INDEX TO PENAL CODE.

DEPOSITIONS (Continued)

Witnesses in state (continued)	
right of defendant	12193
service of copy of order 12191, 12192	
subpoena for witnesses	12194
testimony	
authenticated	12195
reduced to writing	12195
sealed and filed	12196
use of, as evidence	12197
when to be taken	12188
witness in jail, deposition, how taken	12198
Witnesses out of state	
application	
for commission, affidavit	12202
to whom made	12203
commission	
defined	12201
how executed	12207
how returned	12206, 12207
commission and return open to inspection	12211
defendant may have, when....	
.....	12199, 12200
duty of commissioner in taking interrogatories, how settled and allowed	12205
notice of application to take..	12203
order for commission, stay of proceedings	12204
order granted, stay of trial....	12204
return of commission	
delivery to agent.....	12208, 12209
filing	12210
receiving and opening 12208,	12210
time for	12206
use as evidence	12212

DEPUTIES

Appointment for reward	10830
Importation of nonresident forbidden	10925-10927

DESECRATION

Of flag	11561
---------------	-------

DESERTION

See Wife and Children	11017-11022
----------------------------	-------------

DESTRUCTION

Of notices, punishment	11491
Of public records	10873
Penalty for destroying evidence.	10894

DETAINER

Penalty for unlawful.....	11300
---------------------------	-------

DETENTION HOME

Establishment for juvenile delinquents	12297
--	-------

DETENTION HOSPITALS

Within city limits forbidden	11234
-----------------------------------	-------

DIRECTED VERDICT

In criminal cases, court may advise	11995
---	-------

DIRECTORS

Of corporations—See Corporations	11436-11458
--	-------------

DISCHARGE

Convict entitled to what	12458
Fugitive from other states.12425, 12426	
In habeas corpus proceedings....	
.....	12360-12362
Of defendant	
during continuance.....	12225
for lack of evidence	11975
effect of.....	11976
on	
acquittal in justice court....	12330
acquittal on appeal to district court	12340
dismissal of action.....	12226
preliminary examination, when and how	11785
reversal of judgment without new trial order	12129
return of verdict, when....	12034
procedure when offense committed in state	11992, 11993
procedure when offense committed of state	11991
to become witness	11974, 11975
when committed for payment of fine and costs	12072
Of grand jury, when	11819
Of jury	
for lack of jurisdiction	11990
for sickness after retirement..	12013
of juror when ill	12000
in justice courts	12324
not to be discharged, when....	12014
when facts do not constitute offense	11994
Of pauper prisoner, when	12071

DISCLOSURE

Of facts transpiring before grand jury	10947
Of filing indictment or information, penalty	10946
when forbidden	11867

DISCRIMINATION

See Restraint of Trade....	10901-10915
By hospitals forbidden....	11577, 11578

DISEASE

Exposing infected clothing	11503
Exposing person infected with contagious	11257
Permitting diseased animals to run at large	11556
Removal of person in case of....	12479
Sale of diseased animals forbidden	11263

DISGUISE

Unlawful, when	11571
----------------------	-------

DISINTERMENT

Of dead bodies	11032, 11033
----------------------	--------------

DISMISSAL

Action to be dismissed, when...	12223
Bar to subsequent prosecution, when	12229
Case may be continued, when...	12224
Continuance and discharge from custody, when	12225

INDEX TO PENAL CODE.

DISMISSAL (Continued)

Defendant to be discharged on dismissal	12226
exoneration of bail	12226
Nolle prosequi abolished	12228
Of appeals to supreme court—See Appeals to Supreme Court..	
.....	12119-12121
On motion of court or application of county attorney, when ..	12227

DISORDERLY HOUSES—See Prostitution

DISPATCHERS

Railroad, intoxication on duty..	11253
----------------------------------	-------

DISQUALIFICATION

Officers convicted of certain offenses	10861
--	-------

DISSECTION

Unlawful removal of body for...	11033
---------------------------------	-------

DISTRICT COURTS

Actions, how prosecuted in	11622
Adjournment during absence of jury	12016
Admonishing jury on separation..	11999
Arrest of judgment, discretion..	12052
Bill of exceptions, settlement after expiration of judge's term ..	12040
Criminal actions, how prosecuted in	11622
Duty as to arrest of fugitive from other state	12426
Habeas corpus, may grant	12350
Illness of judge, discharge of jury Judge	12000
information against, procedure liable in damages on refusal to grant order for writ of habeas corpus	12380
magistrate	11619
may authorize arrest by telegraph	11767
to sign bill of exceptions.....	12044
Jurisdiction, criminal	11631
after remittitur from supreme court	12132
Magistrate to make return on search-warrant	12413
May advise jury to acquit, when..	11995
May order filing of information..	11625
when	11803
Order	
to bring prisoner in another county before	12432
to confine in jail of contiguous county, when	12474
Power at chambers as to incorrigibles	12505
Prosecution in, by information or indictment	11622, 11623
Question of law, decision by court	12001
Reduction of punishment found by jury	12031
Summary removal of officers by..	11702

DISTRICT JUDGES

See also District Courts	
Duty to assign counsel for defendant, when	11886
compensation of attorney, how fixed	11887
Grand jury, powers concerning—See Grand Jury	11806-11840
Information against, how tried ..	11930
Permits to carry concealed weapons, procedure	11306
To order grand jury, when	11806

DISTURBANCE

Of	
certain public meetings	11284
passengers on railway trains..	11316
police power of conductors..	11317
religious meetings.....	11042
the peace	11297
Procedure to quell—See Riots...	
.....	11655-11667
Refusal to disperse, misdemeanor.	11298

DITCHES

Interference with	11467
Permitting to overflow highways	11531

DIVIDENDS

See Corporations	11441
------------------------	-------

DIVORCE

Advertising to procure, forbidden	11564
---	-------

DOCKET

Justice and police courts.....	12304
--------------------------------	-------

DOCTORS—See Physicians

DOCUMENTS

Altering public, penalty	10873
Forgery of	11355

DOGS

Are personal property	11375
Dogging livestock prohibited	11552
Promoting fights between.....	11514

DOORS

Persons making arrest may break	11761, 11762
Persons serving search-warrant may break	12402, 12403

DOUBT

As to degree of crime, conviction, how	11972
Presumption of innocence	11971

DRIVING

Over bridges, how regulated	11252
----------------------------------	-------

DRUGGISTS

Adulteration of drugs forbidden..	11241
Improper filling of prescriptions..	11238
Omission to label drugs	11238
Opiates, improper sale of	11239
Permits for sale of intoxicating liquors—See Intoxicating Liquors	11048-11133

INDEX TO PENAL CODE.

DRUGGISTS (Continued)

Prescriptions for sale of liquor, regulation of	11053
Sale of spoiled drugs forbidden.	11242

DRUNKENNESS

See also Intoxicating Liquors	
No excuse for crime.....	10728
how far considered	10728
Physician intoxicated, injury to persons	11193
Recovery of damages for injury by intoxicated persons.....	11065
Vagrancy	11521

DUELS

Defined	10981
Duty of officers to prevent	10985
Jurisdiction of actions.....	11705, 11706
Leaving state to evade laws con- cerning	10986
Posting for not fighting	10984
Punishment when death does not ensue	10983
Punishment when death ensues..	10982
Witnesses, privileges of	10987

DURESS

Kidnaping, consent no defense..	10972
When a defense	10729

DYNAMITE

Penalty for destruction of build- ings by	11477
--	-------

EDITORS

Liability for publication of libel —See Libel	10993-10999
Political criminal libel	10800

EIGHT-HOUR LAW

Penitentiary guards	12441-12442
---------------------------	-------------

ELECTION CONTESTS

See Corrupt Practices Act..	10803-10820
-----------------------------	-------------

ELECTION FRAUDS AND OF- FENSES

Acts avoid elections, when.....	10772
Aiders and abettors, penalty....	10756
Ballots adding to or subtracting from. changing or altering by officers, penalty	10755
destroying, penalty	10752
exhibition of, penalty	10749
marking for identification, pen- alty	10760
unfolding or marking by judges, penalty	10753
voting spurious ballot	10760
Betting on elections, penalty....	10767
Bribery, what constitutes	10769
Bribing members of legislative caucus	10764
Canvass of returns, interfering with, penalty	10749
Certificate of nomination, forg- ing, altering or suppressing, penalty	10758

ELECTION FRAUDS AND OF- FENSES (Continued)

Conviction of violation voids elec- tion, when	10772
Crimes against	10747
Destroying or defacing election supplies	10760
Disturbance of public meetings...	10766
Election laws, violation of, pen- alty	10747
Electioneering by officers of elec- tion	10759
Electors, intimidation and corrup- tion of	10757
Employers, unlawful acts of....	10770
Entertainments at personal ex- pense, penalty	10761
Fines, disposal of	10771
Intimidating voters	10757
Legislative assembly, offenses against—See Legislative As- sembly	10834-10852
Legislative caucus, bribery of members, penalty.....	10764
Marking ballots for identification	10760
Money furnished to promote elec- tion, penalty	10761
Offer to appoint to office communication of, penalty	10763
penalty	10762
Officers not to electioneer, penalty	10759
Political convention, bribery of members of, penalty.....	10764
Poll-lists, changing or destroying	10749
Public meetings disturbance of	10766
preventing	10765
Registration, fraudulent, penalty	10748
Returns altering or destroying by of- ficers, penalty	10752, 10754
destruction, penalty.....	10749
forging or altering, penalty...	10754
Supplies, removal or destruction, penalty	10760
Violation of laws, punishment when not prescribed by code	10768
Voters, intimidation of, penalty.	10757
Votes, adding to or subtracting..	10755
fraudulent, penalty	10749
procuring illegal voting.....	10751
Workmen, unlawful acts of em- ployers towards	10770

ELECTRIC LINES

Interference with, punishment..	11473
malicious injury to	11466
Removal of packing from ma- chinery	11472

ELECTRICITY

Larceny of	11385, 11386
false devices for measuring....	11387

EMBEZZLEMENT

See also Larceny	
See also Stolen Property...	12240-12246
Acts constituting	11318
Pleading	11860

INDEX TO PENAL CODE.

EMBEZZLEMENT (Continued)

Punishment of	11318
Search-warrant	12395

EMBRACERY

Defined	10858
---------------	-------

EMPLOYER AND EMPLOYEE

See also Labor	
Foreman soliciting gifts.....	11404
immunity of witness.....	11405
Protection of discharged em- ployees	11219
Refusal	
to furnish names of employees for taxation	11327
to pay wages without discount.	11403
Requiring release of liability, pun- ishment	11402
Unlawful acts in violation of elec- tion laws	10770

ENCLOSURE

Entry upon, without permission, to hunt, etc.	11481, 11482
---	--------------

ENGINEERS

At mines, running cages at ex- cessive speed	11272
Explosion of boiler, neglect	11229
False certificates to	11198
Locomotive, peace officers for cer- tain purposes	11570
Mismanagement of boilers	11195
Railroad, intoxicated while on duty	11253
violation of duty, punishment.	11255

ENSIGN

Defined ..	11562
------------	-------

ENTER

Defined ..	11349
------------	-------

ENTITLING AFFIDAVITS

Defective title not to affect.....	11873
What provisions applicable to special proceedings	12430

ERRORS

In indictment, when disregarded	11853
Not prejudicial, to be disregarded	11874

ESCAPES

See also Rescues and Escapes...	10864-10872
Aiding in time of insurrection..	11292
Convicts, liability for	12448
From arrest, right of person to retake	11771
right to break doors and win- dows	11772
From industrial school, aiding..	12510, 12511
Jurisdiction of actions for	11713
Wearing of masks	11571

EVIDENCE

Abortion, evidence on trial for..	11984
Accomplices, corroboration	11988

EVIDENCE (Continued)

Admissibility under plea of not guilty	11911
Adulterations, possession of, prima facie	11247
Banks, incorporation, how proved	11983
Barratry	10937
Bigamy	11982
Bribery, offender as witness	10863
Bribery of witnesses	10896
receiving or offering to receive.	10897
Coroner's inquest, when deliver to magistrate	12387
where filed	12386, 12387
Corporate existence, how proved	11983-11985
Deceiving witnesses	10892
Defendant failing to testify....	12177
Defendant's, weight to be given.	12177
Degree warranting indictment..	11825
Depositions	
taken in state	12197
taken out of state	12212
Destroying or concealing	10894
Directed verdict, court may ad- vise, when	11995
Disclosure of, by grand juror...	10947
Examination before magistrate authentication	11783
how kept	11784
Expert, on trial for forgery....	11983
Extortion by employers or fore- men	11404
False pretenses	11987
Filing of trademarks	11206
Forgery of bank bills, experts...	11983
Gambling prosecutions, not to be used, when	11178
Grand jury	
need not hear that of defendant	11824
receivable by.....	11823
In libel, truth	10992
Incorporation of banks, how proved	11983
Larceny of money, etc., what suf- ficient	12008
Lobbying, witness compelled to testify	10846
Lotteries	11986
Newly discovered, new trial....	12048
Obscene advertisements	11148
Of	
breach of undertaking to keep the peace	11649
codefendants, use of.....	12178
Offering false	10891
On trial for	
abortion and seduction.....	11984
bigamy	11982
conspiracy	11979
forging bank bills or notes....	11983
larceny, when sufficient	12008
selling lottery tickets	11986
treason	11978
Order of introduction	11969
Perjury, what admissible	10720
Preparation of false	10893

INDEX TO PENAL CODE.

EVIDENCE (Continued)

Preventing witnesses from testi- fying	10895
Prima facie, larceny of gas, elec- tricity or water	11385, 11386
Receiving stolen jewelry, etc., presumptive	11388
Record of former conviction as, when	11120
Rules of applicable	11977
on trial of challenge to jury...	11966
Search-warrant, procedure	12411
Security to keep the peace, re- duced to writing	11640
Seduction, evidence on trial for.	11984
Treason	11978
Turning state's	11974
When receivable before grand jury	11823
Withholding of	10931
Witnesses' privilege, on trial for fighting duel	10987
Witnesses receiving bribes	10897
Wrongful possession of explosives as	11283

EXAMINATION

Bail, order for.....	11788
Commitment for examination form of	11777-11790
how made, and delivered to whom	11789
on charge of capital offense...	11776
order of	11787
when and how	11786
Counsel, defendant may send for.	11774
Cross-examination of witnesses..	11779
Defendant discharged, how and when	11785
when to proceed.....	11775
Defendant's witnesses, when	11780
Depositions of witnesses...11794,	11795
Examination, when to begin....	11775
Exclusion of persons from room	11782
witnesses	11781
Magistrate to inform defendant of his rights	11773
to issue subpoenas	11778
to return testimony, etc., to clerk of district court	11796
Of witness—See Witnesses	
Postponement, course to be pur- sued	11776
Preliminary defendant may waive	11797
form of commitment.....	11790
what papers to be returned to court	11796
Reduced to writing in homicide cases, when and how.....	11783
Testimony by whom and how kept	11784
in writing, how authenticated.	11783
Undertaking of witness to appear	11791, 11792
Waiver of preliminary examina- tion	11797

EXAMINATION (Continued)

Who may be present at prelimi- nary examination	11782
Witnesses—See Witnesses	

EXAMINERS, BOARD OF

Neglect of duty a felony	11331
Special law-enforcement officers authority to appoint	11085
how paid	11085
oath and removal	11085

EXCEPTIONS

Allowed for what.....	12037
Bill to be prepared and pre- sented	12044
settlement of	12044
Decisions of court, when deemed excepted to	12038, 12039
Defendant may except to what..	12037
How and when settled by supreme court	12040
How prepared and settled	12045
Not necessary in criminal trials, when	12041
Preparation of	12044
Procedure for settlement and signing	12044
when exceptions to challenge overruled	11948
Record on appeal, contents of	12045
transcript of minutes in lieu of, when	12045
Review of bill without exception, how obtained	12045
Settlement of bills, how obtained	12044
Supreme court may settle, when and how	12040
Time for preparation	12044
To challenge if sufficiency denied.....	11947
procedure on	11963
To settlement of instructions, how preserved	11969
Transmission by clerk to judge.	12044
What decisions deemed excepted to	12038, 12039, 12043
When not required in criminal cases	12041
Written charges not to be except- ed to	12043

EXCLUSION

Certain persons at preliminary examinations	11782
Witnesses by magistrate on pre- liminary examination	11781

EXCUSABLE HOMICIDE

Not punishable	10967
What constitutes	10963

EXECUTION OF JUDGMENT

Copy of minutes to be furnished officer	12087
Fine and imprisonment, how....	12089
Fine, how issued	12088

INDEX TO PENAL CODE.

EXECUTION OF JUDGMENT

(Continued)

Judgment of death	
duty of county attorney upon inquisition on question of sanity	12096
execution to take place, when and where	12103
how executed	12093
insanity of defendant, how determined	12095
inquisition, how certified....	12097
punishment of death, how inflicted	12102
remaining in force but not executed	12101
return upon death-warrant....	12104
when suspended	12094
Judgment of fine and imprisonment, how executed.....	12341
Judgment of imprisonment, how executed	12090
duty of sheriff	12090
power of sheriff	12091
Judgment of justices' courts....	12326
Judgment other than death, how executed	12087
On affirmation of judgment	12130
Power of officer executing	12091
Pregnancy of female, proceedings upon	12099
execution, when suspended....	12100
findings of jury	12100
Proceedings upon finding of jury	12098
Sentence to hard labor, when imposed	12092
Sheriff may retake prisoner.....	12091
Stay, certificate of probable cause	12113-12115
What constitutes authority for...	12087

EXECUTIVE OFFICERS

Asking or receiving bribe, punishment for	10824
Giving or offering bribes to, forbidden	10823
Penalty for resisting	10825

EXECUTORS

Conversion by larceny	11382
Penalty for failure to file reports	10918

EXEMPLARY DAMAGES

Recoverable for loss of money at gambling	11173, 11174
---	--------------

EXEMPTIONS

False certificates by fire departments, punishment.....	11526
From jury service, not grounds for challenge	11961

EXHIBITION

Of deformities prohibited	11262
---------------------------------	-------

EXITS

Public buildings, regulation of ..	11266
------------------------------------	-------

EXPENSES

Arresting fugitives from justice.	12427
Of trial for escapes, how borne..	10872
Removal of prisoner to testify..	12186
Transportation of insane defendant	12219
Witness outside of county	12182

EXPERTS

As witnesses, forgery of bank bills	11983
Grand jury may employ, when...	11832

EXPLOSIVES

Burglary with	11351, 11352
Death from explosions	11229
Destruction of buildings by, punishment	11477
Manufacture or sale for wrongful use a felony	11281
possession presumptive evidence principals, who liable as	11283
Placing on railroad tracks..	11468-11471
Toy pistols, etc., sale forbidden..	11310-11313

EXPOSURE

See Indecent Exposure	11136-11139
Of infected clothing.....	11503

EXPRESS COMPANIES

Duplicate receipts to be marked.	11462
Duties concerning prohibition act —See Intoxicating Liquors..	11058, 11061, 11118
Fictitious bills of lading, punishment for issuance	11459
Good faith in issuance, when defense	11461
Unauthorized sale of property by, when	11463

EXTORTION

Blackmail, definition	11397
By employers or foremen, witnesses	11405
judicial officers	10855
public officers	10826
Compulsion to execute instrument	11393
Defined	11389
Employer discounting wages	11403
Employers requiring employees to release from liability	11402
Fear produced by threats, defined	11390
Foremen soliciting gifts	11404
Immunity of witnesses	11405
Obtaining signature to instruments	11392
Of fees under color of official right	11395
Offer to prevent publication of libel	10998
Oppression under color of official right	11394
Punishment	11391
when under color of official right	11396
Railroad employees, by	11401
Refusal to pay wages without discount	11403

INDEX TO PENAL CODE.

EXTORTION (Continued)

Threats referring to act of third person	11400
Under color of official right	11395
Verbal threats	11399
What threats constitute	11390
Written threats, sending	11398

EXTRADITION

See Fugitives from Justice.	12418-12428
-----------------------------	-------------

FACT

Issues of—See Issues	
----------------------	--

FACTORS

False statements by	11415
---------------------------	-------

FAIRS

Injury to exhibits	11498
--------------------------	-------

FAKERS

Defined	11425
Punishment	11425

FALSE ADVERTISING

See Advertising	11422-11424
-----------------------	-------------

FALSE ARRESTS

Penalty for	10921
-------------------	-------

FALSE IMPRISONMENT

Definition	10988
Punishment	10921, 10988

FALSE PERSONATION

Acts constituting	11407
Marriage under	11406
Receiving property in false character	11409

FALSE PRETENSES

Evidence on trial for	11987
Obtaining property by	11410
mock auction	11414
Respecting pedigree of animals.	11417, 11418
Sale of mines under	11419
Statements as to financial condition	11408
Verbal, constitute, when	11383

FALSE REPRESENTATIONS

To procure workmen	11220
penalty for	11221

FALSE STATEMENT

By commission merchants, agents, etc.	11415
Respecting financial condition, punishment	11408
Statement of untruth not known, effect of	10887

FALSE WEIGHTS AND MEASURES

See Weights and Measures.	11429-11431
Punishment for increasing weights	11240

FALSIFICATION OF EVIDENCE

See Evidence	10891-10897
--------------------	-------------

FAST DRIVING

Over bridges prohibited	11252
-------------------------------	-------

FEAR

Element in robbery	10974
Extortion through	11390
Not to justify killing, when	10966

FEES

Extortion under color of official right	11395
Not to be paid public officers for procuring fugitives from justice	12428
Of officers and witnesses in enforcing prohibition law	11110
Removal of officers for collecting, illegal	11702
Secretary of state, recording permit use non-beverage alcohol.	11090
Sheriffs, for delivering state prisoners	12464

FELONY

All criminal offenses, whether felonies or misdemeanors, are listed alphabetically under the title Criminal Offenses	
Arraignment, defendant to be present	11876
Arrest	
defendant taken before what magistrate	11739
of defendant at any time	11757
of defendant by private person without warrant	11753
Codefendants, separate trial	11973
Compromise prohibited	12222
Defined	10723
Dismissal not a bar	12054
Judgment, time for pronouncing.	12055
Limitation of action, defendant out of state	11725
five years	11723
time not counted	11727
Punishment, not otherwise prescribed	10724
Sentence, defendant's presence ..	10257
Trial, defendant to be present...	11931
Verdict, presence of defendant...	12018
When classed as misdemeanor.	10723

FEMALES

See Women	
See also Vocational School for Girls	12519-12546

FENCES

Barbed-wire, regulation of	11557
Gates, leaving open	11528
Injuring, punishment for	11482
Malicious destruction of, punishment	11485
Unlawful and dangerous, punishment for maintaining	11557

FERRIES

Obstructing fords near	11529
------------------------------	-------

INDEX TO PENAL CODE.

FIGHTING

- Disturbance of peace 11297
- Duels—See Duels
- Promoting fights between animals 11514

FILING

- Information, when and where.... 11626, 11801
- Officers not to disclose 11628

FINDING

- Lost property, larceny of 11376

FINES

- Addition to imprisonment 11599
- And imprisonment, judgment, how executed 12089
- Collected
 - by justice, payable to whom... 12347
 - by officer, payable to justice.. 12346
- Collection after imprisonment ... 12072
- Deposit applied to satisfaction of 12156
- Driving cattle without brands through state, disposition.... 11548
- Failure to pay over 11321
- For
 - driving cattle over another's land, to whom payable.... 11227
 - violation of election laws, disposal of 10771
- Governor may remit 12247
- How collected from corporations. 12237
- How disposed of 12433
- Imprisonment
 - discharge, when 12072
 - pauper's oath 12071
- Judgment
 - a lien on real property 12073
 - for, on appeal to district court, how executed 12341
 - how executed 12088
- Justice may pay to county treasurer 12347
- Justices' courts, imprisonment, when 12329
- Lien on property disposed of in violation of prohibition law. 11108
- May be added to imprisonment, when 11599
- Officer must pay to justice 12346
- Payment, duration of imprisonment 12069
- Trespass on
 - property, to whom payable.... 11336
 - state lands, school fund 11507
- Under corrupt practices act, to whom paid 10771

FIRE DEPARTMENTS

- Issuing false certificate of exemption 11526

FIRE INSURANCE

- Burning of insured property
 - false proofs of burning..... 11427
 - felony 11426

FIREARMS

- Indians not to carry, where..... 11314
- confiscation and sale 11314

FIREARMS (Continued)

- Sale to Indians forbidden 11259
- Shooting within city or private enclosure, punishment 11530
- Use by children prohibited 11565
- liability of parent or guardian. 11566

FIREMEN

- Obstruction of, at fire 11251

FIRES

- See also Burning
- Building on premises of another.. 11482
- Campfires, control of11500, 11501
- Negligent setting to timber.11500-11502
- Obstructing attempts to extinguish 11251

FIXTURES

- Larceny of 11380

FLAG

- Acts constituting desecration, punishment 11561
- Exceptions 11563
- Meaning of term 11562
- Red flag, exhibiting prohibited... 10745
- penalty for 10746

FLAVORING EXTRACTS

- Excepted from prohibition act... 11050

FLUMES

- Interference with 11467
- Malicious mischief 11487
- Overflowing highways, etc. 11531

FOOD

- Adulteration forbidden 11241
- Destruction in restraint of trade
 - forbidden 10914
 - penalty for violation of act... 10915
- Disposal when tainted forbidden. 11242
- Oleomargarine, stamping of..... 11248
- Poisoning, punishment for 11194
- Possession when adulterated
 - prima facie evidence of guilt 11247
 - powers of state chemist 11247
- Sale of diseased beef forbidden.. 11243
- Selling meat of diseased cattle... 11540
- Service of adulterated, by hotels.11245, 11246

FORCE

- Element in robbery 10973
- Use in arrest, when 11760
- Use of unlawful, when 10980

FORCIBLE ENTRY OR DETAINDER

- Punishable, when 11300
- Recovery of buildings used for gambling 11177
- Return after legal removal 11301

FORDS

- Obstructing near ferry 11529

FOREIGN LAWS

- Acts punishable under, effect of... 11582
- Conviction or acquittal, effect of. 11583

INDEX TO PENAL CODE.

FOREMAN

Grand jury, appointment of	11816
power to administer oaths	11822
Solicitation of money from employees, punishment	11404

FORFEITURE

Bail—See Bail	12157-12166
Clerk of district court, neglect of duty on change of venue....	11926
Commutation of sentence, when..	12475
Conviction of crime not to work, when	11605
Deodand abolished	11605
Deposit, to whom paid	12166
Failure to pay over fines	11321
Governor may remit	12247
How disposed of	12433
Of bail—See Bail	12160-12174
Of office, officers neglecting duty to gambling	11171
sentence for crime	11600
On conviction abolished	11605
Pawnbroker's license, when	11185
Recoverable	10715

FORGERY AND COUNTERFEITING

Counterfeiting	
making or possessing dies or plates	11365
of coins or bullion	11362
possessing or receiving counterfeit coin	11364
punishment	11363
railroad tickets	11366
restoring canceled tickets	11367
Forgery	
acts constituting	11355
false entry in records	11356
of public or corporate seals....	11357
of telegraphic messages	11359
passing or receiving forged notes	11360
punishment	11358
Making, passing or uttering fictitious bills	11361
Misdescription of instrument immaterial, when	11858
Of bank bills or notes, evidence on trial	11983
Offering forged instruments for record	10875
Trademarks—See Trademarks....	11199-11209

FORMER ACQUITTAL

What constitutes	11913
What does not constitute	11912

FORMER JUDGMENT

Of conviction or acquittal, when bar to prosecution	12002
Second prosecution, when forbidden	11612

FORNICATION

Penalty for open and notorious..	11006
Punishment for	11029
When incestuous	11029

FORTUNE TELLERS

Advertising forbidden	11523
liability of newspapers	11524
Punishment of	11522

FRAUDS

See also Fraudulent Conveyances	11432-11435
Assignments	11435
by debtor	10932
Concealment of property by debtors	10932, 10933
Election frauds	10747
In management of corporations—See Corporations	11436-11458
Intent, what sufficient	10714
Obtaining property by false pretenses	11410
Practices to affect market prices.	11258
Presenting fraudulent claims to public officers	10828
Pretenses relative to birth of infant	10934
Sale or removal of property by debtors	10932
Verdict to find value of property.	12026

FRAUDULENT CONVEYANCES

Acts constituting	11432
Concealment of effects of insolvent debtor	11435
Knowingly receiving property...	11434
Removal of property to prevent levy	11433

FREEHOLD

Malicious injury to, what constitutes	11481
---	-------

FREIGHT CARS

Placing in rear of passenger cars forbidden	11254
---	-------

FUGITIVES

Return to state industrial school.	12509
reward for	12512
Return to vocational school for girls	12542

FUGITIVES FROM JUSTICE

Accounts of persons employed to retake, how paid	12427
Bail, admission of accused to....	12422
Commitment of accused, when and for what time	12421
Duty of county attorney	12424
From other states delivered up, when	12418
Governor may offer reward for, when	12415
Magistrate	
issue warrant, when	12419
notify county attorney of arrest	12423
return proceedings to district court	12426
No fee to be paid public officers procuring	12428
penalty for receiving	10919
Payment of reward, how made...	12417

INDEX TO PENAL CODE.

FUGITIVES FROM JUSTICE (Continued)

- Person arrested to be discharged, when 12425
- Proceedings for arrest and commitment of person charged.. 12420
- Standing reward, when offered... 12416

FUNDS

- Law enforcement fund 11084
- State industrial school fund..... 12492, 12514
- State prison fund 12463

GAMBLING

- See also Lotteries 11149-11158
- Abatement of buildings constituting nuisances—See Intoxicating Liquors 11123-11133
- Authority to break and enter room, when 11168
- Betting—See Racing Bets. 11180-11183
- Brace and bunco games prohibited 11162
- Confidence games, obtaining property by 11411
- Destruction of apparatus, when.. 11167
- Duty of public officers
 - to make complaints 11169
 - to seize apparatus 11166
- Enticing to place of 11143
- Games prohibited, penalty 11159
- Leasers of buildings treated as principals 11177
- Losses recoverable in civil action
 - actions brought by any person for use of loser 11174
 - compelling testimony 11176
 - pleadings, sufficiency 11175
- Magistrate to retain apparatus for trial 11167
- Maintaining apparatus a nuisance 11165
- Mayors, duty to enforce law.... 11170
- Obtaining
 - money by means of, is larceny 11161
 - property by confidence game.. 11411
- Officers neglecting duty, forfeiture of office 11171
- Ordinances in conflict with act void 11179
- Possession of implements prohibited 11160
- Receiving money to protect offenders prohibited 11172
- Second offense, penalty for. 11164
- Soliciting persons to visit resorts prohibited 11163
- Witnesses, immunity 11178

GAS

- Breaking or obstructing pipes, punishment 11499
- Larceny of 11385
- false devices for measure 11387

GATES

- Leaving open, punishment for... 11528

GIFTS

- Foremen soliciting, forbidden ... 11404

GIRLS

- Vocational school for—See Vocational School for Girls. 12519-12546

GLANDERS

- Sale of horses with, prohibited.. 11263
- animal to be killed 11264

GOVERNOR

- Application for parole, how considered 12266
- Bringing armed men into state without permission of 11315
- Citizenship, power to restore... 12263
- Duty to report pardons to legislative assembly 12259
- May
 - commute sentence from penitentiary to industrial school. 12507
 - declare county in state of insurrection, when..... 11666
 - revocation of proclamation, when 11667
 - demand delivery of fugitives from justice 12418
 - require report from judge on application for pardon 12260
- Member board of state prison commissioners 12434
- Militia
 - ordering out, to aid execution of process 11657
 - ordering out, to quell riots—See Riots 11660-11667
- Pardons, powers concerning—See Pardons 12247-12266
- Parole of prisoners, power to recommend 12264
- Paroled prisoners still in legal custody 12265
- Payment of reward, how made... 12417
- Power to grant respites 12262
- Reward for arrest of fugitive from industrial school 12512
- Reward for fugitive from justice, power to offer 12415
- Standing reward, when offered... 12416
- Suspension of death sentence by. 12094

GRAIN

- Penalty for burning 11476
- Penalty for injuring standing crops 11483

GRAND AND PETIT LARCENY

- See Larceny 11370-11374

GRAND JURY

- Access to prison and public records 11828
- Acting after challenge allowed, forbidden 10942
- Advice, when and from whom to be received 11829
- Bail, indorsement of 11840
- Challenges
 - effect of allowing to panel.... 11813
 - how made and tried 11811

INDEX TO PENAL CODE.

GRAND JURY (Continued)

Challenges (continued)	
to	
decision upon	11812
individuals, cause for	11810
individuals, effect of allowing	11814, 11815
panel, cause for	11809
who may file	11808
Charge of court	11818
Contempt, juror acting after challenge allowed	11815
Degree of evidence to warrant indictment	11825
Discharged, when	11819
Disclosing facts transpiring before	10947
of finding indictment	10946
Dismissal of charge, effect of....	11835
District judge to order	11806
Drawn and summoned, when....	11806
Duty of juror to declare knowledge of public offense	11826
Duty to examine books of county officers	11832
to employ expert, when	11832
Duty to weigh evidence	11824
Evidence receivable before	11823
Examination of books of county officers	11832
Experts, power to employ	11832
Foreman	
appointment of	11816
to administer oaths to witnesses	11822
Indictment	
effect of dismissal of charge....	11835
form of	11844
how found	11833
how presented and filed	11837
indorsed, how	11838
indorsement of bail, how....	11840
names of witnesses, where inserted	11836
not to be quashed, when	11836
signed, by whom	11838
warrant to issue, when	11839
Inquire into cases of person imprisoned	11827
Inquiry as to official misconduct.	11827
Inspection of prisons	11827
Jails, duty to examine	11827
Jurors	
acting after challenge allowed.	10942
not to be questioned for conduct	11831
not to disclose filing of indictment	11867
May cause process to issue	11824
Names of witnesses inserted on indictment	11836
Not bound to hear evidence for defendant	11824
Number necessary to find indictment	11807
Number of	11807
Oath, form of	11817
Powers and duties	11821

GRAND JURY (Continued)

Procedure when true bill not found	11834
Public persons and records, access to	11828
Resubmission of cause	11994
Retirement	11819
Secrets to be kept	11830
Special jury, when and how summoned	11820
Testimony of witnesses, when to be disclosed	11830
True bill, how found	11833
proceedings, when not found... ..	11834
Who may be present during session	11829

GRAND LARCENY

See Larceny	11370-11374
-------------------	-------------

GRASS

Setting fire to, negligently.....	11500
-----------------------------------	-------

GRAVES

See Sepulture	11032-11038
---------------------	-------------

GUARDIANS

Conversion, larceny	11382
Disposing of wards for mendicant purposes	11021
Failure to file reports	10918
penalty	10918
Power to correct ward	10980
Unlawful to permit ward to use firearms	11565

GUARDS

Hours of labor for prison guards.	12441
--	-------

GUIDEBOARDS AND MILE-STONES

Malicious injury to	11465
---------------------------	-------

GUILTY

Form of plea	11908
verdict	12020
Issue in prosecution for bastardy	12272
Plea of	11907
court to determine degree	12056
how put in	11909
in justices' courts, procedure... ..	12305, 12326
withdrawal	11909

GUNS—See Firearms

HABEAS CORPUS

Application for, how made.....	12349
Arrest after discharge, when....	12371
Bail	
judge may take	12366
when allowed upon	12148
writ for purpose of, when....	12365
Body	
production, when dispensed with	12357
to be produced, when	12356
By whom granted	12350
Clerk of court to issue	12378
Complainant, party prosecuting..	12429
Concealing person entitled to....	11217

INDEX TO PENAL CODE.

HABEAS CORPUS (Continued)

Contents of writ	12352
Court	
to discharge party, when	12360
to remand party, when...	12361, 12367
Damages for failure to issue or obey writ	12380
Defect in writ immaterial, when.	12370
not to be discharged for..	12363, 12364
Defective warrant, proceedings on	12364
Directed to whom	12352
Discharge in certain cases	12362
Disobedience to writ	
proceedings upon	12354
sheriff or coroner to arrest	12354
Disposition of party pending return	12369
District courts may issue, when..	12350
For purposes of bail	12365
Granted without delay	12351
Grounds of discharge for defect in form of warrant	12363
Grounds of discharge, generally..	12362
Hearing	
on return, when	12358
proceedings on	12359
without production of body, when	12357
Imprisonment after discharge, when permitted	12371
Judge	
may commit to legal custody, when	12368
may take bail	12366
to remand on return, when	12367
Must be granted without delay ..	12351
Penalty	
for refusal to obey writ.....	11215
reconfining person discharged on	11216
Return	
contents of	12355
time for	12378
where	12379
Seal on writ	12378
Service, how made	12353
Supreme court may issue, when..	12350
Time for issuance and service...	12377
To whom returnable	12350
Warrant	
how executed	12374
may be issued instead of writ, when	12372
may include person charged with what	12373
return and hearing on	12375
party may be discharged or remanded	12376
Who may prosecute writ	12348
Witnesses, court may compel attendance	12359
Writs	
by whom issued	12378
for purpose of bail	12365
may issue at any time	12377
when returnable	12378
where returnable	12379

HANGING

Execution by	12093
--------------------	-------

HARD LABOR

Sentence to, when imposed	12092
---------------------------------	-------

HAY

Penalty for false weights	11431
for malicious burning	11476

HEALTH

See also Contagious Diseases	
See also Disease	
Neglect to perform duties under.	11237
Willful violation of laws, punishment	11236

HEIRS

Fraudulent pretenses relative to birth of	10934
---	-------

HERDERS

Abandonment of sheep by.....	11550
Driving stock over lands forbidden	11225

HIGHWAYS

Malicious injury to	11464
Mining shafts, protection of....	11267
Moving diseased sheep over	11537
Permitting ditches to overflow...	11531
Putting carcasses in	11235

HOGS—See Swine

HOMICIDE

All witnesses need not be called.	11981
Assault with intent to kill	10976
Bare fear does not justify.....	10966
Burden of proof shifts, when....	11980
Corpus delecti, proof of	10962
Degrees of murder	10955
Excusable and justifiable, not punishable	10967
Excusable homicide defined	10963
Fear justifies, when	10966
Justifiable homicide	
by officers	10964
by other persons	10965
Limitation of action	11722
Malice defined	10954
express or implied, when.....	10954
Manslaughter	
deceased must die, when	10961
jurisdiction of action	11716
kinds of	10959
punishment of	10960
time for commencing action....	11722
voluntary and involuntary....	10959

Murder

burden of proof on trial shifts, when	11980
death caused by holdup of train	11470
deceased must die, when	10961
defined	10953
degrees of	10955
first degree defined	10955
in second degree, punishment...	10957
jurisdiction when party dies in another county	11716

INDEX TO PENAL CODE.

HOMICIDE (Continued)

- Murder (continued)
 - no limitation as to prosecution. 11722
 - on interference with railroad property, punishment 11470
 - penalty for 10957
 - pending actions, how affected.. 10956
 - petit treason abolished 10958
 - second degree defined 10955
 - time for commencement of action 11722
- Proof of corpus delicti..... 10962
- Testimony of witnesses reduced to writing, when 11783
- how signed and authenticated. 11783

HORSERACES — See Races — See Racing Bets

HORSES

- Control of diseases—See Live-stock 11534-11541
- Sale with glanders or contagious diseases prohibited 11263
- Taking up without owner's consent 11551

HOSPITALS

- Discrimination by, forbidden 11577
- Punishment for violation 11578

HOTELS

- Adulterated foods
 - law governing service of. 11245, 11246
 - possession of, as evidence..... 11247
- Penalty
 - for defrauding..... 11579
 - for refusal to receive guests... 11218
- Use of oleomargarine regulated.. 11249

HOURS OF LABOR

- For prison guards 12441
- penalty for violation of act.... 12442

HOUSE OF REPRESENTATIVES

- Power of impeachment vested in. 11669

HOUSEBREAKING

- See Burglary 11346-11352

HOUSES OF PROSTITUTION

- See also Prostitution
- Abatement of buildings constituting nuisances—See Intoxicating Liquors 11123-11133
- Admission of minors to, forbidden 11046
- Keeping disorderly house forbidden 11141
- Keeping or residing in, forbidden 11140
- Residents of, vagrants 11521

HUNTING

- On premises of another, when forbidden 11481, 11482

HUSBAND AND WIFE

- See also Wife
- May occupy same room in jail... 12470
- Selling real property under false representations 11413
- When incompetent as witnesses.. 12176

IDIOTS

- Cruelty to 11214
- Not capable of committing crime 10729
- Use of force in managing..... 10980

ILLEGITIMACY

- See Bastardy, Proceedings In... 12267-12274

ILLNESS

- Of jurors, procedure on 12000, 12013

IMMUNITY

- Witnesses—See Witnesses

IMPEACHMENT

- Articles
 - how prepared 11670
 - service on defendant ... 11672, 11673
 - to whom delivered 11671
- Conviction
 - how had..... 11669, 11679
 - judgment of suspension 11683
- Counsel for defendant to be appointed, when 11675
- Defendant may answer or demur. 11676
- Demurrer, procedure on overruling 11677
- Disqualifies until acquittal 11684
- Effect of filing articles on right to office 11684
- How tried 11669
- Judgment
 - how pronounced 11680, 11681
 - nature and effect of 11682
 - of conviction on plea of guilty. 11677
 - of suspension, effect on salary. 11683
- Justices of peace not liable to... 11668
- Lieutenant-governor, how impeached 11685
- Not a bar to indictment 11686
- Plea, how entered, effect of.... 11676
- Power vested in house of representatives 11669
- Presiding officer when lieutenant-governor is impeached 11685
- Procedure for, preserved when not specified in code 10716
- Procedure when governor or lieutenant-governor on trial 11669
- Proceedings on
 - failure of defendant to appear. 11674
 - preserved 10716
- Resolution of, adoption and presentation 11670
- Senate to be sworn 11678
- to try 11669
- to try impeachment, when ... 11677
- Service on defendant, when and how made 11672, 11673
- Temporary suspension of defendant, when 11684
- Time of hearing 11672
- Trial by senate 11670
- Two-thirds necessary to conviction 11679
- Vacancy, how filled 11684
- What officers liable to 11668

IMPLIED BIAS

- Grounds for challenge for 11960

INDEX TO PENAL CODE.

IMPORTATION

- Of armed men into state, when forbidden 11315
- Of nonresident deputies forbidden 10925-10927

IMPOUNDING

- Animals without food or drink, penalty for 11510

IMPRISONMENT

- See also Sentence 12075-12086
- After discharge on habeas corpus, when permissible 12371
- Arrest, restraint necessary 11753
- Civil death, when 11601, 11602
- Civil rights suspended 11600
- Convict under protection of law. 11604
- Depositions of prisoners 12198
- Failure to give security to keep the peace 11643
- False, defined and how punished. 10988
- False, misdemeanor 10921
- Fine and costs, discharge, when.. 12072
- Fine may be added 11599
- Fines, pauper's oath 12071
- Hard labor 12092
- Judgment
 - how executed 12089-12091
 - may direct to satisfy fine and costs 12069
- Life sentence 11598
- civil death 11601
- Removal for purpose of testifying 12186
- Second term, when to commence. 11596
- Term commences to run, when... 11597
- To be actual, in jails 12471
- Unlawful, discharge on habeas corpus 12360-12362

INCEST

- Jurisdiction when defendant apprehended in another county. 11711
- Punishment of 11029
- Solemnization of marriage forbidden 11212
- what constitutes 11029

INCORPORATION

- Of bank, how proved on forgery trials 11983

INCORRIGIBLE CHILDREN

- See Juvenile Delinquents... 12275-12301

INDECENT EXPOSURES AND EXHIBITIONS

- Character to be determined..... 11138
- Destruction of articles 11139
- Seizure of articles authorized.... 11137
- What constitute 11136

INDETERMINATE SENTENCE

- See Sentence 12075-12077

INDIANS

- Not to carry firearms off reservation 11314
- confiscation and sale of arms.. 11314
- Sale of firearms to, forbidden.... 11259

INDICTMENT

- Accessories, where it may be found 11864
- Against judge, procedure 11930
- Amendment, after allowance of demurrer 11902-11904
- during trial, when 11870, 11871
- Attempts, defendant may be convicted of 11868
- By grand jury—See Grand Jury 11833-11840
- Charge in the alternative, when. 11847
- Charging the time when offense committed 11848
- Codefendants, conviction or acquittal 11862
- Concurrence necessary 11833
- Conspiracy allegations 11979
- Construction of words used. 11850, 11851
- Contents of 11843
- Conviction or acquittal, when bar 11914
- Copy to be given defendant on arraignment 11888
- Counts in 11847
- Crime prosecuted by 11798
- Defect of form not material, when 11853
- Definition of 11616
- Degree of evidence warranting... 11825
- Demurrer
 - allowance, discharge of defendant 11903
 - allowance, when bar, when not disallowance, procedure 11905
 - grounds of 11898
 - its essentials 11899
 - judgment on 11901
 - time of hearing 11900
- Directness and certainty..... 11845
- Disclosure before arrest, misdemeanor 11867
- Disclosure of finding of 10946
- Dismissal
 - for defect in form, not acquittal 11912
 - of action, when 12223
- Embezzlement, pleading 11860
- Erroneous description of person injured..... 11849
- Fictitious name, true name to be inserted, when 11846
- First pleading by state 11842
- Fixing of bail 12145
- Foreman of grand jury to sign... 11838
- Forgery, where instrument destroyed, etc. 11858
- Form of 11844
- Former conviction, form of verdict 12023
- How found by grand jury 11833
- How presented and filed 11837
- Immaterial defects 11853
- Impeachment no bar to 11866
- Indorsement
 - of witnesses 11836
 - on 11833
- Judgments, how pleaded 11855

INDEX TO PENAL CODE.

INDICTMENT (Continued)

Jurisdiction, time of taking objections	11906
Larceny	
of money, etc., description, when allegation sustained...	12008
pleading	11860
Libel, pleading	11857
Lost or destroyed, trial on copy..	11866
Mistake in, effect	11899
Motion to set aside	
effect of granting	11893
essentials	11892
granting new indictment	11894
granting, not bar to prosecution	11895
grounds for making	11891
when heard	11893
Must be direct and certain	11845
Must charge but one offense	11847
Number of grand jury necessary to find	11807
Obscene literature, sale, pleading	11861
Offense of which defendant may be convicted	11868
Partnership property, pleading..	11869
Perjury or subornation, pleading.	11859
Pleas to	11907
Presumptions of law, unnecessary to plead	11854
Private statutes, how pleaded...	11856
Prosecution	
by, in district court	11622, 11623
by, when	11629
of crime by	11607
Public offenses prosecuted by...	11798
Record by clerk	11866
Set aside on motion, when	11891
Time	
allegation in charge, when material	11848
of pendency, not counted, when	11727
To charge but one offense	11847
True name of defendant, arraignment, procedure	11889
Variance, acquittal on ground of, not good as plea	11912
Waiver of defects, when	11892
Warrant	
indorsement of bail	11840
to issue upon finding	11839
What to contain	11843
When "found"	11726
not to be quashed	11836
sufficient	11852
to be set aside	11891
Where found and filed	11800

INDORSEMENT

Of witnesses on information.....	11805
On indictment	11833

INDUSTRIAL SCHOOL, STATE

See Montana State Industrial School	12488-12515
---	-------------

INFANTS

See also Children	
-------------------	--

INFANTS (Continued)

Fraudulent pretenses relative to birth	10934
Substituting one child for another	10935
When capable of committing crime	10729

INFECTION

Afflicted children not to be sent to industrial school	12503
Exposing in public place	11257
Exposing infected clothing	11503
Removal of prisoners from county jail	12479

INFORMATION

Accessories, where it may be found	11864
Actions prosecuted by	11623
Against corporation	12235
Against judge, procedure	11930
Allegations as to partnership property, when sufficient	11869
Amendments	11804
after allowance of demurrer...	
.....	11902-11904
during trial	11870, 11871
Application for leave to file, how made	11624
Attempts, defendant may be convicted of	11868
Certain distinctions between principals and accessories abolished	11863
Charge in the alternative, when..	11847
Charging time, when material...	11848
Clerk to enter order granting leave, when	11627
Codefendants, conviction or acquittal	11862
Conspiracy, allegations	11979
Construction of words used..	11850, 11851
Contents of	11843
Conviction or acquittal, when bar	11914
Copy to be given to defendant on arraignment	11888
County attorney to file, when...	
.....	11626, 11801
Court may order filing, on refusal of county attorney to act....	11803
Court may require, after discharge of grand jury	11820
Defects not affecting substantial rights, effect of	11853
Definition	11617
Departure from prescribed form, when immaterial	11874
Different counts may be used	11847
Disclosure of filing, when forbidden	11628
Dismissal of action, when	12223
Demurrer	
allowance, discharge of defendant	11903
allowance, when bar, when not.	11902
disallowance, procedure	11905

INDEX TO PENAL CODE.

INFORMATION (Continued)

Demurrer (continued)	
grounds of	11898
judgment on	11901
to bill of exceptions	12045
when to be heard	11900
Directness and certainty	11845
Disclosure before arrest, misdemeanor	10946, 11867
Dismissal	
for defect in form, no acquittal	11912
of charge by grand jury, bar to, when	11835
District court may order filing...	11625
District judges, information against, how tried	11930
Duty of county attorney ...	11801-11803
Effect of verdict after amendment	11872
Embezzlement, pleading ..	11860
Erroneous description of person injured	11849
Fictitious name, true name to be inserted, when	11846
Filing of	11801
First pleading by state	11842
Fixing of bail	12145
Forgery, where instrument destroyed, etc.	11858
Form of	11844
Former conviction, form of verdict	12023
Grounds for setting aside on motion	11891
Immaterial defects	11853
Impeachment no bar to	11866
Indorsement, names of witnesses.	11805
Issues on plea of not guilty.....	11910
Judgments, how pleaded	11855
Jurisdiction, objections, time of taking	11906
Jurisdiction of action—See Jurisdiction	
Larceny	
of money, etc., description, when allegation sustained...	12008
pleading	11860
Leave to file	
entered on minutes	11627
not to be disclosed	11628
Libel, pleading	11857
Lost or destroyed, trial on copy..	11866
Mistake in, effect	11989
Motion to set aside	
essentials	11892
granting, new information ...	11894
granting, not bar to new prosecution	11895
grounds for	11891
hearing	11893
refusal, procedure	11893
Must be direct and certain	11845
Must charge but one offense....	11847
Not to be disclosed prior to arrest	11867
Objections waived unless defendant moves to set aside	11892
Obscene literature, sale, pleading	11861

INFORMATION (Continued)

Obscenity, pleading, when sufficient	11861
Of what defendants may be convicted under	11868
Officers not to disclose fact of filing	11628
One of several defendants convicted or acquitted	11862
Order	
entry in minutes of court	11627
of court granting leave to file..	11625
Partnership property, pleading..	11869
Penalty for disclosing filing....	10946
Penalty for failure of county attorney to file	11801
Perjury or subornation, pleading.	11859
Plea of guilty, how put in.....	11909
when withdrawn	11909
Plea of not guilty, when to be entered	11915
Pleas to	11907
form of	11908
how put in	11908
kinds of	11907
Presumptions not to be stated...	11854
Presumptions or judicial notice need not be alleged	11854
Private statutes, how pleaded...	11856
Procedure on mistake in	11989
Procedure when original lost or destroyed	11866
Proceedings for removal of public officers, when by.....	11799
Prosecution of crime by	11607
Prosecution in district courts by.	11622, 11623
Public offenses prosecuted by....	11798
Record by clerk	11866
Recorded, when and where	11866
Set aside on motion, when	11891
Time offense committed, how charged	11848
To charge but one offense	11847
True name of defendant, arraignment, procedure	11889
Variance, acquittal on grounds of, not good as plea	11912
Waiver of defects, when	11892
What to contain	11843
When and where filed	11801
When sufficient	11852
When to be set aside	11891
Witnesses' names to be indorsed on	11805
Words used in statute not to be strictly followed.....	11851

INJUNCTIONS

To enjoin liquor nuisances.....	11067, 11123-11133
To protect trademarks.....	11207
Violation of, in intoxicating liquor cases, contempt	11069

INJURIES

Intoxicated persons, recovery for..	11065
survival of action	11065

INDEX TO PENAL CODE.

INNKEEPERS

- Penalty for defrauding 11579
- Penalty for refusal to receive
guests 11218
- Service of adulterated foods by..
..... 11245-11247

INNOCENCE

- Defendant, presumption as to.... 11971

INQUESTS

- See Coroner's Inquests12381-12393

INSANE ASYLUM

- Defendant detained until sane.. 12218
- Duties as to insane convicts..... 12461
- Notice of sanity of defendant,
to whom 12218
- Removal of insane convicts to.. 12461

INSANE PERSONS

- Cannot be tried or punished 12213
- Cruel treatment of 11214
- Incapable of committing crime.. 10729
- Use of force in managing 10980

INSANITY

- Acquittal, procedure 12036
- After judgment of death, certifi-
cate, signing and filing 12097
- duty of county attorney 12096
- how determined 12095
- inquisition into12095-12098
- procedure upon finding of jury. 12098
- process for witnesses 12096
- Cause for refusal to pronounce
judgment 12065
- Commitment after found insane.. 12217
- Commitment, exoneration of bail 12217
- Convicts, disposition of 12461
- Defendant, inquiry concerning,
during trial
- commitment exonerates bail... 12217
- court may submit question to
jury 12214
- detention of defendant in
asylum 12218
- expenses, how paid 12219
- trial to proceed, how 12215
- verdict of jury, effect of..... 12216
- Form of verdict.....12020
- Ground for challenge of juror... 11958
- Insane asylum, notice on defend-
ant becoming sane 12218
- Insane children not to be sent to
reform school 12503
- Insane person not to be tried or
punished 12213
- Jury to determine..... 12214
- Stay pending determination 12214
- Transportation of insane defend-
ant 12218
- Trial, procedure 12215
- Verdict of jury, procedure 12216

INSOLVENCY

- See also Banks and Banking
- Fraudulent assignments 11435

INSPECTION

- Books and papers of penitentiary 12451
- Commission to take deposition,
open to 12211
- Jails, by county commissioners... 12486
- Of books, refusal by collectors of
revenue 11330
- Refusal to permit stockholder to
inspect books of corporation. 11447

INSTRUCTIONS

- Counsel may argue on law as
given in 11969
- Deemed excepted to 12043
- Errors, new trial 11969
- Exceptions to, by defendant 12037
- Jury may take to juryroom 12011
- Part of record 12043
- Settlement of 11969
- stenographer to be present.... 11969
- To grand jury..... 11818
- Trial of question of insanity 12215
- When to be read 11969

INSTRUMENTS

- Compulsion to execute, extortion. 11393
- False personation 11407
- Fraudulent, offering for recorda-
tion 10875
- Obtaining signature to, by threats 11392
- Written, mutilation of, etc..... 11492

INSURANCE

- Burning or destroying insured
property 11426
- False proof of loss 11427

INSURRECTION

- Governor may declare, when.... 11666
- revocation of proclamation.... 11667
- Resisting process after county de-
clared in 11292

INTENT

- Assault, possession of deadly
weapons 11354
- Drunkenness, jury may consider. 10728
- How manifest 10727
- Not essential to violation of law 10713
- To defraud, what constitutes... 10714
- Union of act and intent to con-
stitute crime 10726

INTEREST

- Rate allowed pawnbrokers 11186

INTERROGATORIES

- See Depositions 12199-12212

INTERVENTION

- Officers to prevent offenses, when 11633
- persons acting in aid, when
justified 11636

INTOXICATING LIQUORS

- Note: In using the index of this
title care should be taken to
consult both the alphabetical
arrangement under the sub-
title Act of 1921, conforming
to the Volstead act, as well
as the alphabetical sequence
of the entire index

INDEX TO PENAL CODE.

INTOXICATING LIQUORS (Continued)

Abatement of nuisances—See subtitle nuisances, abatement of	11123-11133
Act an exercise of police power	11100
Act of 1921 conforming to Volstead act	
action to enjoin nuisances....	11067
advertisement of vehicles seized	11073
advertising forbidden ...	11062, 11063
exceptions	11062
alcohol, when excepted	11050
analyses by secretary of state	11051
articles not subject to act	11050
automobiles, regulation of seizure and sale	11073
bill of particulars	11078
bond required for permit	11052
bonded warehouses, storage in	11082
burden of proof in prosecutions	11079
carriers, records of shipment by	11058
oath	11058
unlawful to accept packages with false statement	11060
citation for violation of act... ..	11054
hearing on	11054
revocation of permit	11054
common nuisance—See subtitle nuisance	
complaint for violation of act, form of	11071
compromise of actions	11079
confiscated liquor used for medicinal purposes.....	11074
copy of permits to be kept....	11056
damages, recovery for injury by intoxicated person.....	11065
definition of terms	11048
delivery where deemed made by carrier	11077
denatured alcohol excepted....	11050
denatured rum excepted	11050
destruction of liquor seized....	11073
duty to notify carrier contents shipment	11059
effect of partial invalidity of act	11081
expense of analysis, how paid..	11082
false report, penalty for making	11075
flavoring extracts permitted..	11050
injunction issued, when	11067
injunctions, violation of, contempt	11069
how punished	11069
injury by intoxicated person, damages for	11065
intoxicating liquor defined	11048
joinder of offenses.....	11078
law enforcement fund, creation and use	11084
lien on premises.....	11066
lien to follow proceeds of sale	11073
liquor defined	11048
manufacturers' labels, regulations governing	11057
medicinal preparations excepted	11050

INTOXICATING LIQUORS (Continued)

Act of 1921 conforming to Volstead act (continued)	
medicinal purposes, use of confiscated liquor for	11074
nonbeverage liquor use permitted	11049
nuisances defined	
action to enjoin	11067
bond not required	11067
bond on order of abatement	11067
forfeiture of lease for maintenance of liquor on premises	11068
injunction	11067
lien on premises	11063
order of abatement.....	11067
penalty for maintaining....	11066
unlawful transportation and sale constitutes	11068
order for delivery when consignee not bona fide	11061
packages with false statements, acceptance unlawful	11060
patent medicines excepted	11050
penalties for violation of act	11075
penalty for false reports	11075
permit to develop liquids, when and how granted	11082
permits	
bond for	11052
copy to be kept	11056
expiration of	11052
form of	11052
issuance of	11052
revocation of	11054
permits to manufacture excepted articles required.....	11050
hearing by secretary of state	11050
limit on use of alcohol	11050
sale for beverage purposes, penalty for.....	11050
pharmacist's license, when revoked	11075
pharmacists' prescriptions, regulation of	11053
physician's license, when revoked	11075
physicians' permits, regulation of	11053
possession of liquor prima facie evidence of violation of act	11079
prescription books, druggists to keep	11053
preserved sweet cider excepted	11050
private dwelling defined	11071
property rights in, abolished..	11070
railroads, record of shipment by	11053
duty to notify of contents of shipment	11059
order for delivery when consignee not bona fide	11061
unlawful to accept package with false statement.....	11060
record of sales to be kept.....	11055
record of shipment by carrier..	11058

INDEX TO PENAL CODE.

INTOXICATING LIQUORS (Continued)

Act of 1921 conforming to Volstead act (continued)	
records, inspection by prosecutor	11080
repealing clause	11086
revocation of permits by secretary of state	11051
citation and hearing.....	11054
review of action	11051
revocation of physicians' and druggists' licenses	11075
rules of pleading	11078
sale of articles for unlawful use forbidden	11063
sale of vehicles, seized, procedure	11073
sales without permit, when prohibited	11049-11052
exceptions	11052
scope of act	11086
search-warrant, form and execution of	11072
when and how issued	11071
seizure of liquor, regulation of.	11073
self-incrimination not to excuse testifying	11076
exemptions	11076
service of summons on owner of property	11083
solicitation of orders forbidden	11064
special enforcement officer, appointment of	11085
oath	11085
removal	11085
storage in bonded warehouses, when permitted	11082
sweet cider excepted	11050
terms defined.....	11048
toilet preparations excepted...	11050
traffic in liquor prohibited	11049
exceptions	11049
unlawful possession of, forbidden	11070
vehicles, regulation of, seizure and sale	11073
vinegar excepted	11050
warehouse receipts, purchase and sale permitted	11049
warehouse, storage of liquor in.	11082
wine for sacramental purposes, permit for	11052
use permitted	11049
witnesses, privileges of	11076
Agents not to act for breweries or liquor houses	11102
Alcohol, nonbeverage, permits for use	
action to cancel permit	11093
conviction violation of law to revoke permit.....	11092
existing statutes not repealed.	11094
fee for recording permit	11090
lawful to sell and use, when..	11088, 11089
recording permit	11088, 11089
revocation of permit	11092

INTOXICATING LIQUORS (Continued)

Alcohol, nonbeverage, permits for use (continued)	
scope of act	11094
secretary of state to record permit	11091
suits for revocation of permit.	11093
to whom issued	11087
Attorney-general, duty to investigate and prosecute violations	11109
Clubs, restrictions on use of, in..	11103
Competency of witnesses to prove certain facts	11111
Complaint not to state, what....	11111
Complaints by peace officers ...	11106
Confiscated liquors, disposal of..	11105
County attorneys, duty to investigate and prosecute violations	11109, 11115
Dealing in, through agent, prohibited	11102
Destruction of liquor and property, when and how	11105
Disposal of liquor and fixtures on seizure	11105
District Court, jurisdiction of...	11122
Doctors' permits—See subtitle permits for physicians' use	
Duty to seize liquor	11106
Employment of counsel to assist prosecuting attorney, when..	11119
Fees of officers and witnesses ...	11110
Fines and costs, lien on property.	11108
premises may be sold to pay..	11108
Hearing of return on warrant....	11105
Jurisdiction of district courts...	11122
Justices of the peace, powers of.	11109
Lien of fine and costs, disposal of property	11108
Nonbeverage alcohol—See subtitle alcohol	
Nuisances, abatement of other buildings constituting	
actions, dismissal and costs ...	11127
bond, owner may give, when..	11131
release of property	11131
terms of.....	11131
building defined	11123
closing of building, when and how	11129
county attorney to abate	11125
fees of officers	11129
fines and levy on building	11132
order of abatement, contents and entry.....	11129
penalty for violation of injunction	11128
person defined	11123
precedence of actions	11127
private dwellings, warrant not to issue, when	11125
proceeds of sale, how applied..	11130
repealing clause.....	11133
sale of fixtures, when and how.	11129
temporary injunction, when granted	11126
verification of complaint, when	11126

INDEX TO PENAL CODE.

INTOXICATING LIQUORS (Continued)

Nuisances, abatement of other buildings constituting (continued)	
warrant to issue, when	11125
what buildings subject to	11124
Original packages not to be opened	11118
Peace officers to arrest offenders	11106
Peace officers to furnish evidence of violation	11116
Penalty for unlawful disposal of liquor by officers	11113
Permits for physicians' use and prescription	
druggists not to be compelled to handle	11098
federal permits valid in state	11098
penalties for violation of act	11099
for violation of federal act	11099
person defined	11095
physician defined	11096
physicians may deal in, when	11098
physicians may prescribe for medicinal use, when	11097
Person defined	11101
Physicians' permits—See subtitle permits for physicians' use	
Praeipe for subpoenas, when and by whom issued	11109
Private dwellings, regulation of search of	11104
Proceeds of liquor sold payable to school fund	11105
Public officers, removal of for neglect of duty	11117
Punishment for misdemeanor	11121
Receipt of money by public officers a felony, when	11114
Record of former conviction as evidence	11120
Removal of public officers for failure to perform duty, procedure	11117
Replevin of liquor and property forbidden	11107
Search-warrants	
fixtures, how disposed of	11105
hearing of return on	11105
issuance and execution, how	11104
liquor seized, how disposed of	11105
Seizure of, when and how	11104
Sheriff, duty to furnish evidence	11116
Subpoenas for witnesses, issuance and service	11109
penalty for disobedience	11109
Testimony, filing in district court	11109
Witnesses, fees of and duty to attend	11110
privileges of	11112

INTOXICATION

Acts by physicians endangering life	11193
As defense to crime, when	10728
Injuries by intoxicated persons, acts to recover	11065

INTOXICATION (Continued)

Of engineers and conductors forbidden	11253
Of telegraph operators forbidden	11253
Vagrants, when	11521

INVENTORY

Property taken on search-warrant	12409
copy to whom	12410

INVOLUNTARY MANSLAUGHTER

See Homicide	10963-10967
--------------	-------------

IRRIGATION DITCHES

Obstructing or taking water from	11467
----------------------------------	-------

ISSUES

In prosecution for bastardy	12272
Of fact, arises how	11928
how tried	11929
Order of disposal on calendar	11934

JAILERS

Penalty for failure to receive persons arrested	10916
Rescues and escapes—See Rescues and Escapes	10864-10872

JAILS

At towns other than county seat	12467
Authority of county commissioners concerning	12486
County commissioners may prescribe rules	12484, 12485
County jails, by whom kept	12468
for what purposes used	12468
rooms required in	12469
County jails must be built	12466
Destroying or injuring, punishment	11486
Food and clothing, how provided	12482
Guard, when employed	12481
Inhumanity to prisoners forbidden	10922
Jail of contiguous county	
keeper to receive prisoners, when	12475
prisoners to be returned to proper county, when	12477
revocation of use, how and when	12476
to be used, when	12474
Labor of prisoners on public works	12484
Maintenance of prisoners, compensation	12482
Officers permitting escapes	10869
persons assisting	10870, 10871
Other jails authorized	12467
Prisoners	
may be removed in case of contagious diseases, procedure	12479
may be removed in case of fire	12478
may be required to labor	12484
must be actually confined	12471
on civil process, duty to receive, when	12483
to be classified, how	12469, 12470
Procedure to produce prisoners in another county	12432

INDEX TO PENAL CODE.

JAILS (Continued)

Regulations for performance of labor	12485
Rescue of prisoners	10864
Security to be given for expenses, when	12483
Segregation of sexes.....	12470
Service of papers on jailer for prisoners	12480
Sheriff answerable for safe-keeping of prisoners	12473
duty to provide food and clothing	12482
to certify list of prisoners, when..	12487
to receive all persons committed	12482
to receive prisoners	12472
Use as state prison, when	12459

JEOPARDY

Defense to prosecution	11612
Once in, form of plea.....	11908
plea of	11907

JOINT AUTHORITY

How construed	10713
---------------------	-------

JOINT DEFENDANTS—See Co-defendants

JUDGES—See District Courts and District Judges

JUDGMENT

See also Execution of Judgment	12087-12104
Acquittal, on appeal to district court, discharge.....	12340
Affirmance of execution on	12130
After amendment of information or indictment	11872
Aggravation or mitigation, hearing	12067, 12068
Appeal, extent of review.....	12126
Appeal, technical errors disregarded	12125
Arraignment of defendant for..	12064
Arrest of—See Arrest of Judgment	12051-12054
Bastardy	12273
Bench-warrant to issue, when....	12060
By confession, court to declare punishment	12028
Circumstances in mitigation, how presented	12068
Confession, under false personation	11407
Conviction, removal from office..	11699
Costs, imprisonment for	12069
Court	
may arrest, when	12052
may consider circumstances in mitigation or aggravation.	12067
by what proof presented	12068
to appoint time for pronouncing	12055
to determine degree, when....	12056
Defendant	
discharged on reversal.....	12129

JUDGMENT (Continued)

Defendant (continued)	
failing to appear when on bail, procedure	12059
may show cause why judgment should not be pronounced	12065
on bail, bench-warrant.....	12060
to be informed of what, prior to	12064
in custody, how produced	12058
Defendant's presence	12057
Discharge of	
defendant on reversal of.....	12129
pauper prisoner, when	12071
prisoner in other cases, when..	12072
Effect of arrest	12053
Entry of	12074
Execution of—See Execution of Judgment	12087-12104
Fine, a lien on real property....	12073
Fine and costs	
discharge from imprisonment, when	12072
duration of imprisonment	12069
pauper's oath.....	12071
Fine, deposit applied to	12156
For fine, on appeal to district court, how executed	12341
Form of bench-warrant for production of defendant	12061
Former conviction or acquittal, effect of	11612, 12002
How entered upon conviction....	12074
How pleaded	11855
Impeachment, conviction, how pronounced	11680, 11681
nature of	11682
Imprisonment, hard labor	12092
Imprisonment, on appeal to district court, how executed....	12341
In justice and police courts—See Justice and Police Courts..	12326-12332
Interest of justice or constable in, forbidden	10860
Judgment-roll, what constitutes..	12074
Jurisdiction ceases after remittitur	12132
Justices' courts, rendition..	12326-12332
time for rendition	12332
Lien of judgment for fine.....	12073
May direct imprisonment to satisfy fine and costs	12069
Motion in arrest of, on what founded	12051
Of	
appellate court, how entered..	12131
imprisonment in justice and police courts, how executed....	12341
suspension, in impeachment proceedings	11683
On	
allowance of demurrer, when bar to another prosecution ..	11902
bail bond, lien	12165
demurrer to information	11901

INDEX TO PENAL CODE.

JUDGMENT (Continued)

Plea of former judgment—See Plea	11907-11915
Presence of defendant necessary, when	12057
Procedure on showing of insanity	12065
Pronouncing, no cause shown....	12066
Pronouncing, time for	12055
Prosecutor to pay costs, when rendered	12070
execution	12070
Remittitur to clerk of court....	12131
Roll, what constitutes	12074
Supreme court, entry	12131
Time for pronouncing	12055
To be executed on affirmance by appellate court	12130
To be rendered if no cause shown	12066
To pay fine constitutes a lien... ..	12073
Warrant for production of defendant, how served	12062
arrest of defendant	12063
What causes may be shown against	12065
When rendered in justice and police courts	12332
When to be deferred	12065

JUDGMENT DEBTOR

Concealment of property	10933
-------------------------------	-------

JUDGMENT-ROLL

Contents of.....	12074
------------------	-------

JUDICIAL NOTICE

Matters not necessary to be pleaded in information or indictment	11854
--	-------

JUDICIAL OFFICERS

Bribery of, penalty for	10853
Bribes, receipt of by	10854
Disclosing finding of indictment.	10946
Duty to prevent duels	10985
Embracery defined	10858
Punishment for corrupt practices	10861
Solicitation of bribes by.....	10855

JUNK-DEALERS

See Pawnbrokers	11184-11187
Presumptive evidence as to stolen property	11388

JURIES—See Jury

JURISDICTION

Abduction	11710
Accessories, actions against	11717
After remittitur from supreme court	12132
Bigamy, when defendant apprehended in another county... ..	11711
Bringing prisoner in another county before court	12432
Conviction or acquittal in another state a bar, when	11719
Discharge of jury for lack of, when	11990
procedure when offense committed in state	11992, 11993

JURISDICTION (Continued)

Discharge of jury for lack of, when (continued)	11991
procedure when offense committed out of state	11631
District court, criminal	11705
Dueling, when death ensues	11706
leaving state to evade statute against	11710
Enticing children	11713
Escapes from prison	12362
Excess, release on habeas corpus.	11855
Facts constituting, to be established	11711
Incest, when defendant apprehended in another county... ..	11630
Justice courts, criminal	10971, 11710
Kidnaping	11716
Murder, when party dies in another county	11716
manslaughter	11906
Objections, time for taking	11703
Offense committed in state	11707
Offenses committed in two counties	11708
committed on boundary of two counties	11704
Offenses committed without but consummated within state... ..	11718
Principals not present	11721
Prizefights	11712
Property taken in one county and brought into another	11715
Stolen property brought within state	11702
Summary removal of officers....	11714
Treason when committed out of state	11709
Vessels and cars, offenses on board	

JURORS—See Jury

JURY

Accommodations to be provided for	12009, 12010
Adding names to, penalty for....	10876
Adjournment in absence of.....	12016
Admonishing at adjournment....	11999
Agreement, return into court... ..	12017-12019
Altering jury-list	10876
Assessment of punishment, court may reduce	12031
error, duty of court	12029, 12030
Bound to obey instruction as to law	12004
Cause to be retried when discharged without verdict	12015
Challenges to trial juries—See Challenges	11941-11968
Charge to, how and when given..	11969
Communication with, not permitted	12005
Coroner's jury—See Coroner's Inquests	12381-12393
Court may adjourn during absence of	12016
Court may advise acquittal, when	11995
Decide law and facts in libel....	12003

INDEX TO PENAL CODE.

JURY (Continued)

Defendant's credibility, take into consideration what	12177
Degree of crime, must find	12022
Determine law and fact in libel..	10992
Disagreement, discharge, when ..	12014
Disagreement, retrial	12015
Discharge, facts not constituting offense, procedure	11994
for lack of jurisdiction..11990, 11991	
illness of judge	12000
or retention pending investigation of sanity of defendant..	12214
upon verdict	12019
when	12014
Embracery	10858
Examination on challenge	11965
Falsifying jury-list, penalty for.	10877
Finding of lesser offense or attempt	12024
Formation of	11932
Further instructions, etc., return into court	12012
Grand juror acting after challenge allowed	10942
Grand jury—See Grand Jury...	11806-11840
How formed in justice and police courts.....	12313
Illness, before conclusion of trial, procedure	12000
Illness of juror after retirement, procedure	12013
Improper influencing	10856
Information after retirement, how given ..	12012
Inquest	
number	12381
oath of	12382
verdict of	12385
Inquisition into insanity of defendant	12095-12098
Insufficient verdict, procedure...	12021
Issue of fact, must try.....	11929
Juror in contempt, on polling of, when	12033
Jury trial, how waived in justice and police courts	12313
Justices' courts, discharge, when.	12324
may decide in court or retire..	12321
may fix punishment	12327
not to separate, exception....	12319
retrial	12325
Justices' or police courts	12312
how waived	12313
Knowledge to be declared in court, when	11997
Manner of receiving verdict....	12019
May	
assess punishment	12027
convict of lesser offense or attempt	12024
decide in court or retire	12005
find general verdict	12004
find upon charge of previous conviction	12023

JURY (Continued)

May (continued)	
return into court for information	12012
information, how given	12012
take instructions to juryroom..	12011
Misconduct	
by, acts constituting, penalty for	10857
new trial	12048
of officers in charge of.....	10859
Misdemeanor, number required..	11929
Not bound to follow court's advice to acquit	11995
Not to be discharged until when.	12014
Number	
in justice and police courts....	12312
in misdemeanor cases	11929
necessary for verdict in cases not felonies	11929
Oath in justice and police courts	12318
Offering bribes to	10853
receiving bribes	10854
Officer falsifying jury-list	10877
On what points given instruction	11969
Papers they may take to juryroom	12011
Personal knowledge of juror, procedure	11997
Polling of	12032
contempt	12033
Previous conviction, jury to find on charge of	12023
Proceedure when juror sick after retirement	12013
Proceedings when juror sick....	12000
Punishment, justice's court may modify	12328
court may assess, when	12027
Questions of fact decided by....	12004
Retrial on discharge of jury, when	12015
Return on agreement upon verdict	12017
Room for, upon retirement	12009
Separation during trial	11998
Separation without leave, new trial	12048
Sickness of juror—See subtitle illness	
To	
ascertain value of property, when	12026
consider drunkenness, when ..	10728
determine law and fact in libel suits	12003
retire in custody of officer	12005
Trial by, removal from office	11697
Trial jury, how formed in criminal actions.....	11932
Value of property, duty to find, when	12026
Verdict—See also Verdict	
as to codefendants	12025
how received	12019
value of property taken.....	12026
View of premises	11996

INDEX TO PENAL CODE.

JURY (Continued)

When guilty of contempt.....	12033
When sworn as witnesses	11997

JURY-LIST

Adding names to	10876
Falsifying, penalty for	10877

JURY-TRIAL

How waived in justice courts...	12313
in district courts	11929

JUSTICE

Fugitive from—See Fugitive from Justice	12415-12428
--	-------------

JUSTICES' AND POLICE COURTS

Acquittal, immediate discharge.	12330
Actions, how commenced	12302
prosecuted by complaint	11621

Appeal

acquittal, discharge of defend- ant, when	12340
how taken	12335
judgment for fine, how executed	12341
judgment of imprisonment, how executed	12341
sureties, judgment against, when	12337
time for	12334
trial de novo	12339
undertaking for fine and costs.	12336
undertaking on judgment of imprisonment	12338

Bail pending appeal	12338
---------------------------	-------

Bail, provisions applicable	12342
-----------------------------------	-------

Challenges, how regulated	12317
---------------------------------	-------

Challenges to jury.....	12317
how tried	12317

Change of venue

affidavit	12307
transmittal papers	12308
when	12307

Commitment to answer, or bail..	12305
---------------------------------	-------

Complaint, what to contain.....	12302
---------------------------------	-------

Continuance, verbal notice to wit- nesses present sufficient	12315
--	-------

Court cannot charge jury	12320
--------------------------------	-------

Court to decide question of law..	12320
-----------------------------------	-------

Criminal actions, how prosecuted in	11621
--	-------

Defendant

admissible to bail, when	12342
--------------------------------	-------

to be

discharged after judgment, when	12340
discharged on acquittal	12330
present at trial.....	12316

to make known true name, ef- fect of failure	12309, 12310
---	--------------

Demurrer sustained, new complaint	12311
-----------------------------------	-------

Discharge of defendant on com- mitment	12333
---	-------

Discharge of jury without ver- dict, when	12324
--	-------

Docket, how kept.....	12304
-----------------------	-------

Entitling of affidavits, provisions applicable	12344
---	-------

Examination of witnesses on plea of guilty, when	12305
---	-------

Execution of judgment, by whom	12326
--------------------------------	-------

JUSTICES' AND POLICE COURTS

(Continued)

Fines collected payable to justice	12346
collected by, payable to whom.	12347
imprisonment, when.....	12329
Form of warrant of arrest	12303
Guilty, procedure on plea of....	12326
Issues, how tried	12306

Judgment

against sureties on appeal....	12337
of fine or imprisonment	12329
of imprisonment, how executed	12341
on plea of guilty	12326
to be entered in minutes	12332
when rendered	12332

Jurisdiction of justice courts, criminal	11630
---	-------

Jury

discharge of, when retrial.....	12325
discharge, when.....	12324
how formed	12313
may decide in court or retire..	12321
may fix punishment	12327
not to separate, exception	12319
number	12312
oath of	12318
retiring, officer sworn	12321

Jury-trial, how waived	12313
------------------------------	-------

Justice may modify punishment.	12328
--------------------------------	-------

Justice to pay fines to county treasurer	12347
---	-------

Malicious prosecution, appeal by prosecutor from order to pay costs	12331
---	-------

Minutes, how kept	12304
-------------------------	-------

Name, duty of defendant to de- clare	12309, 12310
---	--------------

New complaint made, when.....	12311
-------------------------------	-------

Notice of appeal, time for filing.	12335
------------------------------------	-------

Oath of jurors	12318
----------------------	-------

Oath to be administered on re- tirement	12321
--	-------

Officer must pay fines to justices	12346
------------------------------------	-------

Ordinances, how referred to	12302
----------------------------------	-------

Plea guilty, procedure	12305
------------------------------	-------

Plea, oral	12305
------------------	-------

Police court, what included in term	12345
-------------------------------------	-------

Postponements	12314
---------------------	-------

Procedure on sustaining demurrer	12311
----------------------------------	-------

Proceedings in, how commenced.	12302
--------------------------------	-------

Prosecutor to pay costs, when... judgment against prosecutor...	12330 12331
--	----------------

Punishment, court may fix when jury does not	12327 12328
---	----------------

court may modify	12328
------------------------	-------

Questions of fact, court not to charge as to	12320 12320
---	----------------

law decided by court	12320
Rendition of judgment	12326, 12332

time for	12332
Retrial of defendant on discharge of jury, when	12325

Subpoena, disobedience, how pun- ished	12343
---	-------

issuance of	12343
-------------------	-------

Trial de novo on appeal	12339
-------------------------------	-------

Trial, how conducted	12319
when	12306

INDEX TO PENAL CODE.

JUSTICES' AND POLICE COURTS

(Continued)

True name of defendant...	12309, 12310
Undertaking	
for fine and costs on appeal....	12336
of prosecutor to pay costs	12330
on judgment of imprisonment	
on appeal.....	12338
Verbal notice to witnesses, when	
sufficient	12315
Verdict of jury, codefendants, dis-	
agreement as to one or more,	
procedure	12323
entry in minutes	12322
how delivered.....	12322
to be general	12322
Warrant, form of	12303
Warrant to issue, when	12303

JUSTICES OF THE PEACE

Commanding rioters to disperse.	11658
Failure to pay over fines	11321
Interest in judgment forbidden..	10860
Jurisdiction	11630
Magistrates	11619
Not liable to impeachment	11668
Powers when enforcing prohibi-	
tion law	11109

JUSTIFIABLE HOMICIDE

See Homicide	10964-10967
--------------------	-------------

JUVENILE DELINQUENTS

Act not to affect state institu-	
tions	12300
Age of children subject to act...	12276
Agreements with certain institu-	
tions for support of children.	12292
Appropriation for act	12297
Bond of chief probation officer..	12301
Certain terms defined	12276
Chief probation officer	
appointment and salary	12288
bond of	12301
examination of applicants....	12288
expenses	12288
quarterly report of	12288
salary and expense, how paid.	12288
statement of expenses, filing of	12288
to report cases tried	12277
Children	
not to be imprisoned, when..	12279
subject to rules of institution,	
when	12288
to be held for trial to district	
court, when	12280
when deemed	12276
Cigarettes, use of, delinquency,	
when	12275
Citation and report of persons	
having custody of child.....	12288
Citation to parents or guardians,	
when issued	12279
order to support child	12288
Commitment	
of child, to whom ordered	12288
of children to reformatory in-	
stitutions	12288
traveling expenses, how paid	12288
women to accompany girls..	12288

JUVENILE DELINQUENTS (Con-

tinued)

Commitment (continued)	
to industrial school, form of..	12289
Commitments subject to certain	
rules	12288
Confinement of children with	
adult convicts prohibited....	12288
Construction of acts	12299
County attorney to prosecute...	12283
County commissioners authorized	
to carry out act	12297
Defined	12275
Deposition as evidence, when...	12276
Designation of judge	12286
Detention homes	
establishment	12297
matron and superintendent, ap-	
pointment and powers.....	12297
matron and superintendent, sal-	
aries	12297
provided for juvenile delin-	
quents, when.....	12297
tax levy to defray expense...	12297
transfer of county funds to pur-	
chase	12297
transfer of funds to private	
home	12297
Dismissal of actions, when.....	12288
Evidence of children, when used	12276
Examination of children by magis-	
trate	12280
Form of commitment to indus-	
trial school	12289
Hospital care for children, when	
provided	12288
Immediate hearing and trial, when	12288
Issuance and return of citation..	12279
Judge, designation of	12286
Jurisdiction of actions	12277
Jurisdiction of justices of the	
peace, limitations	12280
Jury-trial, right of child to....	12277
Juvenile delinquent, record, how	
kept	12277
Juvenile improvement committee,	
when and how appointed....	12287
Matron of detention home, ap-	
pointment	12297
New trials and appeals, provisions	
applicable	12284
Notice of proceedings to be served	
upon parents	12279
Penalty for improper and negli-	
gent training of children...	12293
Persons entitled to be present..	12282
Petition, filing and contents	12279
Place of trial	12281, 12282
Placing of children in public hos-	
pitals, when.....	12288
Prior acts excepted from repeal..	12298
Probation officer	
appointment	12288
children may be placed in fam-	
ily, when	12288
children may be placed in insti-	
tution, when	12288

INDEX TO PENAL CODE.

JUVENILE DELINQUENTS (Continued)

Probation officer (continued)	
crimes of children, duties concerning investigation	12288
duty of judges as to children	12288
duty to investigate criminal cases	12288
duty to prepare report of cases	12277
expense, care of children, how paid	12288
inspection of institutions by bureau of child and animal protection	12288
investigation by	12288
order to show cause to pay expense	12288
hearing	12288
judgment	12288
powers and duties	12288
Proceedings before magistrate after arrest	12280
Proceedings by petition	12278
Provisions of Penal Code applicable	12284
Purpose of act	12299
Records of probation officer	12290
Religious beliefs, consideration of, in placing children	12291
Report of custodian of children	12288
Return of children to home, when	12288
State institutions not affected	12300
Superintendent of detention home, appointment	12297
Support of children, how enforced	12288
Suspension of judgment, when	12288
Suspension of sentence	12285
bond, contents of	12294
citation and judgment against surety on bonds	12296
court may suspend, when	12294
execution of sentence	12295
forfeiture of bond	12295
moneys, how disposed of	12296
power of court concerning	12294
when had	12285
Time and place of trial	12282
Written statement on release upon probation	12290

KIDNAPING

Consent of person kidnaped not defense, when	10972
Definition and punishment	10970
Jurisdiction of actions	11710
Venue of actions	10971

KNOWINGLY

Defined	10713
---------------	-------

LABELS

See also Trademarks	11202-11209
Improper labeling by druggists	11238
On adulterated foods	11245

LABOR

See also Employer and Employee	
Acts of employers in violation elections laws	10770

LABOR (Continued)

Convict labor, regulation of	12446
Discounting wages forbidden	11403
False representations to procure	11220, 11221
action for damages	11222
compulsory boarding-houses prohibited	11223
punishment for violation of act	11224
Foremen soliciting gifts	11404
Hours of labor of prison guards	12441
House of penitentiary guards	12440
Mine regulations—See Mines and Mining	11267-11280
Prisoners in county jails required to labor	12484
Prosecutions, immunity of witnesses	11405
Protection of discharged employees	11219

LABOR ORGANIZATIONS

Counterfeiting union-label	11204
Suits on counterfeit labels, by whom	11208
Unlawful use of name or seal of	11209
Use of counterfeit union-label	11205

LAND

See also Real Property	
Injuring fences, building fires and hunting upon	11482
Malicious injuries to, acts constituting	11481
Returning to take possession of, after eviction	11301
Selling twice, punishment	11412
false representation by married person	11413

LANDLORD AND TENANT

Letting buildings for boxing-matches, misdemeanor	11296
gambling, principals	11177
lotteries, misdemeanor	11156
Letting houses for disorderly purposes	11141

LANDMARKS

Removing, defacing or altering	11484
Surveyors' monuments, injuries to	11490

LARCENY

Acts constituting	11368
Claim of title as defense	11384
Conversion by trustees, administrators, etc.	11382
Defenses	11384
Definition	11368
Degrees of	11370
Dogs, personal property	11375
Evidence on trial for, when sufficient	12008
False devices for measuring gas, water or electricity	11387
False pretenses, obtaining money by	11410
Fixtures	11380
Gas or electricity	11385, 11386

INDEX TO PENAL CODE.

LARCENY (Continued)

Grand, defined	11371
Grand, punishment	11373
Jurisdiction of action for property brought within state ...	11715
Jurisdiction when property brought into another county.	11712
Lost property	11376
Money, etc., what proof sufficient	12008
Obtaining money by fraudulent check	11369
Obtaining money by gambling...	11161
Of gas or electricity.....	11385
Out of state, bringing property into state, jurisdiction.....	11715
bringing property into state...	11381
Petit, defined	11372
jurisdiction of justices of the peace	11630
prior conviction, punishment..	11593, 11594
punishment	11374
Pleading	11860
Railroad tickets	11378
Receiving property by false personation	11409
Receiving property stolen out of state	11381
Receiving stolen property	11388
Records by others	10874
Records by public officers	10873
Removal of mortgaged property.	11416
Severing part of realty	11380
Taking property from one county to another, jurisdiction	11712
Uttering fraudulent checks or drafts	11369
Value of passenger tickets, how ascertained	11378
Value of written instruments, how ascertained	11377
Verbal false pretense	11383
Verdict, value of property	12026
Water	11386
Written instruments	11377, 11379

LAW—See Questions of Law

LAW ENFORCEMENT FUND

Creation and use	11084
------------------------	-------

LAWFUL RESISTANCE

See Resistance	11632-11634
----------------------	-------------

LEASES

See also Landlord and Tenant	
See also Intoxicating Liquors for abatement laws	
Forfeiture for violation intoxicating liquor laws	11068
Of buildings for gambling, void..	11177

LEAVE OF COURT

To file information	11801
---------------------------	-------

LEGISLATIVE ASSEMBLY

Altering draft of bill or resolution	10836
Altering enrolled copy of bill....	10837

LEGISLATIVE ASSEMBLY (Continued)

Bribery	
acts constituting	10850, 10851
by members, defined	10848
defined	10841, 10842
of members	10838
defined	10849, 10851
Bribes, receiving by members ...	10839
Bribes, solicitation of	10840
Corrupt practices, penalty	10847
Disqualification of members on conviction of crime	10847
Disturbing of	10835
Fraudulent altering of enrolled bills, etc.	10837
proposed bills, etc.	10836
Inspection of books of state prison	12451
Lobbying, improper	10846
Members soliciting bribes	10840
Penalty for violation of act	10852
Perjury of witnesses before.	10881, 10882
Personal interest in bills, duty to disclose	10844
Preventing meeting or organization of	10834
Publications of reports by newspapers	10995-10997
Receiving of bribes by members..	10839
Report to, by board of state prison commissioners	12462
Solicitation of bribery, by members, defined	10848
defined	10843
Trading votes	10848
Witnesses, failure to attend ...	10845

LEGISLATURE — See Legislative Assembly

LETTERS

Opening or publishing when sealed, punishment	11493
Sending, when deemed complete..	11587
Threats by, unlawful.....	11398

LEVY

Unlawful under color of official right	11394
--	-------

LEWDNESS

Abatement of buildings, when..	11124
Acts upon children	11005

LIABILITY

Employers requiring release from employees	11402
--	-------

LIBEL

Defined	10989
Extortion, offer to prevent publication	10998
Giving false information for publication	10999
How pleaded in indictment and information	11857
Jury to determine law and facts	10992, 12003

INDEX TO PENAL CODE.

LIBEL (Continued)

Liability of editors and publishers	10994
Malice presumed, when	10991
privileged communications not deemed	10997
Political criminal libel defined...	10800
Privileged communications	10997
Publication, what constitutes ...	10993
Publishing two reports of public proceedings privileged	10995
extent of privilege	10996
Punishment	10990
Threatening to publish, penalty for	10998
Truth may be given in evidence..	10992

LICENSES

Carrying on business without, punishment	11328
False certificates to engineers ...	11198
Pawnbrokers	11184
forfeiture, when	11185
Refusal to give names of employees	11327
Steam-boilers, operating without.	11196
Use of unauthorized receipts....	11325
possessing unauthorized blank receipts	11326

LIEN

Judgment on bail bond	12165
Judgment to pay constitutes	12073
On property used in sale of intoxicating liquors ..11066, 11108, 11132	
On real property created by bastardy proceedings	12269

LIEUTENANT-GOVERNOR

Impeachment proceedings against	11685
---------------------------------	-------

LIFE IMPRISONMENT

Court may sentence to, when....	11598
---------------------------------	-------

LIMITATIONS OF ACTIONS

Action to recover gambling losses	11174
Effect of code on past offenses...	10712
Exception when defendant is out of state	11725
Felonies other than murder or manslaughter	11723
Indictment, when found	11726
Manslaughter	11722
Misdemeanors	11724
Murder	11722
Time of pending information, not counted when	11727

LIQUORS

See Intoxicating Liquors...	11048-11133
-----------------------------	-------------

LIVESTOCK

Alteration of brands forbidden..	11211
Auctioneer to record sales of	11541
Barbed wire, permitting to become dangerous	11557
Branding cattle running at large, when prohibited	11553
running-irons prohibited	11553

LIVESTOCK (Continued)

Brands	
animals driven through state to be branded	11542, 11543
duties of officers.....	11547
fines, how disposed of	11548
penalties for violation of act ..	11546
road brand	11544
sash or frying-pan prohibited..	11554
sheep brands, how distinguished	11545
Bringing into state when infected	11534
Cruelty to—See Cruelty to Animals	11508-11515
Death from mischievous animals, penalty	11260
Disobeying orders of state veterinary surgeon	11535
Dogging prohibited.....	11552
Driving	
cattle from customary range forbidden	11549
cattle on railroad	11555
on sidewalks	11504
over bridges, how regulated ..	11252
Failure of auctioneer to record sales of	11541
False pedigree	11417
sale of, with	11418
Importing diseased cattle after quarantine proclaimed	11538
Jury may view in criminal cases, when	11996
Larceny of, acts constituting	11371
Malicious killing or injury to, punishment	11515
Penalty for killing by railroads..	11278
Penalty for owner of trespassing stock	11226
Permitting diseased animals to run at large	11556
Pollution of streams by	11235
Receiving or transporting when diseased	11539
Sale of diseased carcasses forbidden	11243
Sheep	
bringing into state when infected	11534
moving diseased sheep under quarantine	11537
receiving and transporting when diseased	11536
removal of scab sheep without certificate of inspection	11533
Taken on search-warrant to be sold	12408
Taking up horses without owner's consent, punishment ...	11551
Trespassing forbidden	11225
fines, disposal of	11227
punishment for	11226
scope of act	11228
Veterinary surgeon, obstructing or failing to report to	11540
View by jury	11996

LOANS

False statements to obtain, penalty	11408
---	-------

INDEX TO PENAL CODE.

LOBBYING

Defined, penalty for 10846

LOCKOUTS

See Strikes11220-11222

LOCOMOTIVES

Interference with—See Railroads
.....11468-11472
Stealing rides on car forbidden. 11569

LOGS

Defacing marks upon 11210
Malicious spiking, punishment... 11505
Passage way to be kept open 11575
Permitting to accumulate along
shore11574-11576
Punishment for violation 11576

LOST PROPERTY

Larceny of 11376

LOTTERIES

Aiding, forbidden 11152
Defined 11149
Evidence on trial for selling tick-
ets 11986
Forfeiture of property offered in,
procedure 11155
Insuring lottery tickets forbidden 11154
Letting building for, forbidden.. 11156
Lottery offices, advertising for-
bidden 11153
Out of state included in act.... 11157
Punishment 11158
for drawing..... 11150
for selling tickets 11151

LUMBER—See Logs

LUNATICS

Cruelty to 11214
Use of force in managing 10980

MACHINERY

Removal of packing from 11472

MAGISTRATES

See also Arraignment
See also Arrests
See also Justices' and Police
Courts
Adjournment of examination,
when and where made 11776
Arrest
misdemeanors, admission to bail
.....11740-11742
misdemeanors at night-time ... 11757
of fugitive, notice to county
attorney 12423
without warrant, duty of..... 11731
Bail for appearance12140-12144
Commanding rioters to disperse.. 11658
Counsel for defendant, duty to
send for 11774
Course when postponement of ex-
amination had 11776
Definition of term10713, 11618
Deposition of witness12191, 12192
sealing and filing of testimony. 12196
subpoena 12194

MAGISTRATE (Continued)

Duties as to property taken on
search-warrant12407-12414
Duty in granting search-warrant. 12397
on filing complaint charging
public offense 11730
to inform defendant of his
rights to counsel 11773
Examination of defendant to pro-
ceed, when 11775
Exclusion of witnesses on exami-
nation 11781
Form of commitment for exami-
nation 11777
Issuance of search-warrant..... 12394
May issue subpoena 12179
Must issue subpoenas
for whom 11778
when 11732
Oral order of arrest..... 11755
Powers as to witnesses on com-
mitment of defendant..11791-11795
Preliminary examination of cor-
poration12230-12234
Refusing to disperse rioters 11291
Return on arrest of fugitive from
other state 12426
Security to keep the peace
jurisdiction 11637
powers and procedure....11637-11652
Stolen property, how to dispose of
.....12240-12246
Subpoenas, duty to issue 11732
Testimony at coroner's inquest to
be delivered to, when 12387
To cause search of defendant for
weapons, etc. 12414
Warrant of arrest, when to issue. 11730
What papers to be returned to
court on preliminary exami-
nation 11796
Who are 11619

MAIL

See also Letters
Return of commission to take
deposition12206, 12207

MALES

Separate rooms in jails....12469, 12470

MALFEASANCE—See Officers

MALICE

Defined 10713
Express or implied, when 10954
In publishing report of public pro-
ceedings, libel 10995
Presumed in libel suits 10991

MALICIOUS DESTRUCTION OF PROPERTY

Punishment for, when not other-
wise provided 11474
specifications not restrictions,
when 11475

MALICIOUS MISCHIEF

Altering telegraphic messages... 11495
Burning of structures, not subject
of arson 11476

INDEX TO PENAL CODE.

MALICIOUS MISCHIEF (Continued)

Cutting state timber	11507
Defacing landmarks	11484
Defacing public buildings	11506
Destruction of	
dams, canals, etc.	11487
fences	11485
jails	11486
markings of mining claims....	11491
monuments, etc.	11484
rafts	11488
Disclosing contents of message..	11494
Driving animals on sidewalks....	11504
Enumeration of acts in code not restrictive	11475
Exposing infected clothing	11503
Guideposts, injuring	11465
Injuries to	
books, exhibits, etc.	11498
gas or water pipes	11499
highways	11464
jails	11486
objects in public libraries....	11498
real property, trespass, when..	11481
surveyor's monuments	11490
trees or improvements	11497
Injuring buildings by explosives.	11477
Jurisdiction of justices' courts...	11630
Mutilation of written instrument	11492
Notices, destruction of	11491
Obstructing navigable rivers	11489
Opening telegraphic messages....	11496
Railroad property, injury to	11468
Setting adrift boats, rafts, etc..	11488
Setting fire to timber	11500-11502
Spiking sawlogs	11505
To real property	11481
To telegraph and telephone lines..	11466
Trespass on state lands	11507
Water, taking from canals	11467
What constitutes	11474

MALICIOUS PROSECUTION

Justices' courts, appeal by prosecutor from order to pay costs	12331
prosecutor to pay costs ..	12330, 12331
Maliciously procuring search-warrant or arrest	10948

MALPRACTICE

By intoxicated physician, penalty	11193
---	-------

MALT LIQUOR

Adulteration of, penalty	11241
--------------------------------	-------

MANSLAUGHTER

See Homicide	10959-10967
Time for commencement of action	11722

MARKETS

Fraudulent practices to effect, forbidden	11258
---	-------

MARKS

See also Brands	
Defacing upon logs	11210
Included in signature	10713

MARRIAGE

Bar to prosecutions, when..	11006, 11007
Bigamy	11025-11027
False return of record of.....	11213
Incest	11029
Marrying husband or wife of another, penalty	11028
Solemnizing forbidden marriages	11212
Under false personation, punishment	11406
Use of force to compel, punishment for	11004

MARRIED WOMEN

False pretenses by, on sale of land	11413
Incapable of committing crime, when	10729
Right of action for injury from sale of intoxicating liquor...	11065
Security for appearance of witness, when given	11793
When incapable of crime	10729

MARSHALS—See Peace Officers

MASCULINE GENDER

Includes what	10713
---------------------	-------

MASKS

Wearing prohibited, when	11571
--------------------------------	-------

MASTER AND SERVANT

Blacklisting prohibited.....	11219
Compulsory boarding-houses.....	12223
Discounting wages, extortion....	11403
Employer requiring employee to release from liability	11402
Extortion, immunity of witnesses	11405
False representations to workmen	11220
Foremen soliciting gifts	11404
Refusal to give names of employees for taxation	11327
Unlawful acts of employers, relative to elections	10770

MAXIM SILENCERS

Manufacture or sale for wrongful use a felony	11281
Possession of, presumptive evidence	11283
Principals defined	11282

MAYHEM

Defined	10968
Punishment	10979

MAYORS

Duty to	
enforce gambling laws	11170
enforce law relating to sale of toy pistols and caps	11313
order force to preserve peace, when	11654

MEASURES

See Weights and Measures.	11429-11431
---------------------------	-------------

MEAT

Sale of diseased carcasses forbidden, when	11243, 11244
--	--------------

INDEX TO PENAL CODE.

MEDICINAL PREPARATIONS

Exception prohibition act 11050

MEDICINAL PURPOSES

License to dispense liquors for—
See Intoxicating Liquors ..11095-11099

MEDICINE

Penalty for poisoning 11194
Sale of adulterated, forbidden... 11242

MEETINGS

Disturbing other meetings 11284
Disturbing religious meetings ... 11042
Preventing electors from meeting 10765
Preventing legislative meeting... 10834

MENACE

Commission of crime under 10729

MERCHANDISE

Fakers defined and punishment.. 11425
False advertising forbidden 11422-11424
Prison-made goods to be stamped..
.....11572, 11573

MESSAGES

Forgery of telegraphic 11359
Opening telegraphic 11496

METERS

False, for measuring gas, etc.... 11387

MILESTONES

Injuring of 11465

MILITIA

County in state of insurrection.. 11666
Duty to order dispersal before
attacking rioters 11665
Offenses, prosecution 11607
Retaining arms, etc., unlawfully. 11332
Riots, firing upon mob 11664
Selling arms unlawfully 11333
To aid in execution of process,
when 11657
quelling riots 11657
To obey call 11661
Under orders of sheriff, when... 11663
Unlawful possession of arms be-
longing to 11332
Wearing uniform without author-
ity 11558
When governor may call out 11660
When to obey civil officer 11662

MILK

Keeping cows in unhealthy places 11513
Sale of, from diseased cows 11540

MINES AND MINING

Cages, how constructed and oper-
ated 11268
Changing samples of ore for assay 11420
Coal mines, depositing slack in
streams forbidden11276, 11277
Destruction of notices forbidden. 11491
Engineer, when subject to prose-
cution 11272
Escapement shafts, how con-
structed11273, 11274

MINES AND MINING (Continued)

False pretenses in selling 11419
False samples of ore 11421
Inspection, violation of regula-
tions 11280
Maintaining building near mouth
of shaft 11271
Malicious injury to, penalty 11487
Obstruction of shafts, penalty for 11580
Penalty for violating laws gov-
erning 11280
Placer, interference with flumes. 11467
Protection of underground miners
.....11273-11275
Punishment for violation of act..
.....11272-11275
Running cage at excessive speed. 11270
Salting prohibited 11419
Scope of act 11274
Shafts in cities to be protected.. 11267
Stationary engineers, running
cages at excessive speed 11272
Stopping near shaft forbidden ... 11269

MINING INSPECTOR

Duty as to safety of cages 11268

MINORS

See also Infants
See also Children
Admission to places of prostitu-
tion 11046
Capable of committing crime,
when 10729
Not to frequent pool halls 11191
Rape, proof of ability to commit. 11001
Receiving stolen property, evi-
dence 11388
Security for appearance as wit-
ness, when given 11793
Selling of tobacco to, forbidden.. 11047
Selling or giving obscene litera-
ture to11134, 11135
Use of firearms prohibited 11565

MINUTES OF COURT

Clerk to enter order granting
leave to file information.... 11627
Reason for dismissal of action... 12227
Transcript of, when used on ap-
peal 12045

MISCARRIAGE

Advertising to procure 11142
Submitting to attempts to pro-
duce 11024

MISCHIEF—See Malicious Mis- chief

MISCONDUCT

See also New Trial
Of attorneys 10938

MISDEMEANOR

See also Criminal Offenses
Acts punishable as, when not
otherwise provided 10951
Aiding in, punishment 11586

INDEX TO PENAL CODE.

MISDEMEANOR (Continued)

Arraignment, defendant's presence not required	11876
Arrest in daytime, exception	11757
Bail	11740, 11742, 11748
Compromise, when	12220
Crimes, classed as, when	10723
Definition of term	10723
Dismissal a bar	12229
Jurisdiction of justices' courts	11630
Jury, number required	11929
Limitation, defendant out of state	11725
indictment quashed, time not counted	11727
one year	11724
Punishment for aiding	11586
Punishment where not prescribed	10725
Resisting officers	10825
Trial and judgment, how had in justice courts	11770
Trial, defendant need not be present	11931
Verdict, presence of defendant unnecessary	12018

MISFEASANCE—See Officers

MISPRISION OF TREASON

Defined	10736
Punishment	10736

MISREPRESENTATION—See

Fraud

MISTAKE

In	
indictment or information, procedure on	11989
pleading immaterial	11874
title to affidavit	11873

MITIGATION

Murder, burden of proof	11980
Of punishment	11585
hearing	12067, 12068

MOBS

See also Riots	
Refusal to disperse on command	11298

MONEY

Counterfeiting—See Forgery and Counterfeiting	11362-11365
Embezzlement by public officers	11318
Making profit by public officers forbidden	11318
Obtaining by confidence games	11411
Obtaining by false pretenses	11410
Penalty for officer's failure to pay over	11319
Using or circulating unauthorized, punishment	11525

MONOPOLY

See Restraint of Trade	10898-10914
------------------------------	-------------

MONTANA STATE INDUSTRIAL SCHOOL

Additional buildings and improvements	12513
when to be erected	12500

MONTANA STATE INDUSTRIAL SCHOOL (Continued)

Appeal from order of commitment	12505
Biennial report	12502
Board of examiners to audit accounts	12515
Branches of learning to be taught	12499
Building fund	12514
Buildings and improvements, regulation of	12513
Charges against inmates, how investigated and tried	12497
Commitment of females may be changed to other institutions, when	12548
Commitment to, form of	12289
Commutation of sentence, how and when	12507
Departments	12498
Designation of name	12489
Discharge of inmates, when	12506
Duration of sentence	12506
Duties of local executive board	12497
Duties of president	12496
Entry of order of commitment	12503
Escapes, punishment for aiding	12511
Establishment and location	12488
Expenses of commitment, how defrayed	12504
Expenses of improvements, how certified and paid	12515
powers of state board of examiners	12515
Form of commitment	12503
Form of commitment juvenile delinquents	12289
Fugitives from school	
arrest of	12509
reward for arrest	12512
Location	12488
Matron	
appointment of	12495
employment and duties	12495
responsible to whom	12498
Objects and purpose	12490, 12494
Order of commitment	12503
Penalty for connivance at escapes providing tools or weapons for	12511
Physician's certificate	12503
Powers of directors and officers	12491
Powers of local executive board	12490
Presentation of youths to presiding officer	12494
President	
duties	12496
employment of	12495
report of	12501
Punishment for offenses committed at	12497
Purchase of machinery and tools	12500
Purposes of	12494
Record of investigations	12497
Regulation of school by local executive board	12500
Releases and paroles	12508
Remand to state prison, when	12507

INDEX TO PENAL CODE.

MONTANA STATE INDUSTRIAL SCHOOL (Continued)

Report of board	12502
Report of president	12501
Review of proceedings by supreme court	12505
Reward for arrest of fugitives..	12512
Rules	12500
State industrial school fund	12492, 12514
Supervision and control	12493
Term of commitment	12506
Who may be omitted	12503

MONTH

Defined	10713
---------------	-------

MONUMENTS

Destruction on mining claims...	11491
Injuries to surveyors'	11490
Penalty for defacing	11038
Removing, defacing or altering..	11484

MORPHINE

Unlawful sale of	11239
------------------------	-------

MORTGAGES

False representation by husband or wife	11413
Selling or removing mortgaged property to defraud	11416

MOTIONS

For new trial	12046-12050
In arrest of judgment	12051
To quash indictment	11891-11895
What deemed excepted to..	12038-12043
What to be presented by bill of exceptions for review.....	12045

MOTOR VEHICLES

Possession when parts have been removed prohibited	11479
penalty for selling or disposing of	11480
Punishment for use without owner's consent	11478

MOVING PICTURES

Exhibition of crimes forbidden..	11567
----------------------------------	-------

MULES

See also Livestock	
Taking up without owner's consent	11551

MUNICIPAL CORPORATIONS—

See Cities and Towns

MURDER—See Homicide, subtitle murder

MUSEUMS

Injury to exhibits	11498
--------------------------	-------

NAME

Defendant to declare in justice court	12309, 12310
Proceedings when defendant not indicted by true	11889
Proceedings when indicted by fictitious	11846

NARCOTICS

Administration, when assault....	10976, 10977
Unlawful sale of	11239

NATIONAL GUARD—See Militia

NAVIGABLE LAKES

Permitting logs to accumulate along shore forbidden..	11574-11576
---	-------------

NAVIGABLE RIVERS

Obstructing	11489
-------------------	-------

NECESSARIES

Penalty for failure to provide for wife and child	11017-11022
---	-------------

NEGLECT

Definition	10713
Of children	11022

NEGOTIABLE INSTRUMENTS

Forgery	11360
Larceny	11377-11379
Passing or uttering	11361
Unlawful issuing of	11525

NEW TRIALS

Affidavit, when used on	12050
After appeal, where to be had ..	12128
Application, how made.....	12049
when to be filed	12049
Definition of term.....	12046
Disagreement of jury	12015
Effect of granting, on subsequent trial	12047
Error in instructions, when ground	11969
Former verdict not to be used..	12047
Granting, effect of	12047
Ground fors	12048
Hearing on motion	12050
Motion	
deemed excepted to.....	12038-12043
for, how made	12050
on affidavits, when	12050
on bill of exceptions, when....	12050
to be heard, when	12050
Newly discovered evidence, affidavits	12048
Stay of proceedings, pending....	12050
Upon what made	12050
When to be granted	12048
Where to be had	12128

NEWLY DISCOVERED EVIDENCE

New trial for	12048
---------------------	-------

NEWSPAPERS

Advertisement	
lotteries, misdemeanor... 11152, 11153	
of divorce, prohibited	11564
Editors' and publishers' liability in libel	10994
Extent of privilege of publication	10996
False report of proceedings of court	10944
Giving false information for publication	10999
Obscene advertisements, evidence	11148

INDEX TO PENAL CODE.

NEWSPAPERS (Continued)

Offer to withhold publication of libel for pay	10998
Paid political advertisements reg- ulated	10798
Punishment for obscene adver- tisements	11146
Reading by jurors, when not dis- qualification	11962
Threats to publish libel	10998
True report of public proceedings, privileged	10995
What advertisements prohibited.	11144

NIGHT-TIME

Defined in	
arson statute	11340
burglary statute	11350
Service of search-warrant	12404
When arrest not to be made in..	11753, 11757

NOLLE PROSEQUI

Abolished	12228
-----------------	-------

NOMINATIONS

Campaign expenditure for, limit of	10773
------------------------------------	-------

NONBEVERAGE ALCOHOL

See Intoxicating Liquors...	11087-11093
-----------------------------	-------------

NONSUPPORT

Of wife and children—See Wife and Children	11017-11022
---	-------------

NOT GUILTY

Evidence admissible under plea..	11911
Failure of corporation to appear, plea to be entered	12236
Form of plea	11908
Form of verdict	12020
Issue in prosecution for bastardy	12272
Plea of	11907
Plea puts in issue, what	11910
Refusal of defendant to plead...	11915

NOTES—See Negotiable Instruments

NOTICE

Destroying or tearing down.....	11491
Of	
appeal, service	12110, 12111
application for bail, when.....	12139
commission to take deposition	12203
motion for new trial	12049
settlement of bill of exceptions	12044
Prosecution for bastardy.....	12268
Reduction of bail	12151
Taking deposition of witness....	12190

NOTICES

Destruction of	11491
----------------------	-------

NUDITY—See Obscene Literature

NUGGETS

Counterfeiting	11362
----------------------	-------

NUISANCES

See also Public Nuisance..	11231-11235
Abatement of buildings where un- lawful acts carried on	11124

NUISANCES (Continued)

Abatement when maintained in violation of prohibition law —See Intoxicating Liquors..	11066, 11123-11133
Maintaining gambling apparatus.	11165
Maintenance in violation of pro- hibition laws—See Intoxicat- ing Liquors	11066-11069

OATHS

Defined	10713
Defined in law governing perjury	10879
incompetency of witnesses no defense	10884
irregularity in administering no defense	10883
oaths of office	10880
Foreman of grand jury may ad- minister	11822
Of	
bailiff on final retirement of jury	12005
bailiffs when in charge of jury.	11998
jurors in justice and police courts	12318
on retirement	12321
jurors on inquest	12382
Perjury defined	10878
To grand juries	11817

OBJECTIONS

Appearing in face of information, etc., demurrer	11906
To information or indictment, es- sentials	11892

OBSCENE LITERATURE

Advertisement to cure venereal diseases	11144-11148
Advertisement to produce mis- carriage	11142
Composing or publishing	11136
Destruction of	11138, 11139
Duty of magistrate	11138
Exhibition of, in view of minors.	11134
Penalty	11135
Pleading	11861
Seizure authorized	11137
Selling or giving to minors.....	11134

OBSTRUCTION

Of	
attempts to extinguish fires...	11251
fords	11529
mining shafts.....	11580
navigable rivers	11489
revenue officers	11322

OBTAINING PROPERTY BY FALSE PRETENSE

Acts punishable	11410-11414
-----------------------	-------------

OFFENSES

See Criminal Offenses	
See also Compromising Offenses..	12220-12222
How prosecuted	11798
Not bailable, when	12135

INDEX TO PENAL CODE.

OFFICERS

See also Arrest	
See also Corporations	
See also Public Officers	
Administrative officers subject to what laws	10833
Appointing deputies for reward..	10830
Arrest, powers of	11750
Arrest without lawful authority.	10921
Asking or receiving bribes	10824
Assault by, under color of authority	10929
Assumption to act without right.	10822
Authority to break into buildings where games played	11168
Banks, overdrawing accounts...	11442
Breaking open doors, etc., search-warrant	12402, 12403
Bribery of	
executive	10823
judicial, etc.	10853
school trustees	10862
Buying appointment	10829
Collection of revenue, refusal of inspection of books	11330
Conviction, forfeiture of office	11600
Court may remove, in addition to penalty	11588
De facto, validity of acts	10822
Delay in taking prisoners before magistrate	10920
Destruction of counterfeit trademarks, etc.	11207
Disqualification from holding office, when	10861
Duties concerning prohibition law—See Intoxicating Liquors	
Duty to prevent duels	10985
Exercising functions wrongfully.	10831
Extortion	10826, 11389-11405
Extortion under color of official right	11395
Failure to pay over public money.	11319
False certificates, misdemeanor	10945
False claims, presenting for payment	10828
Falsifying jury-list	10877
Fees as to fugitives, not recoverable	12428
Fines, collected by, payable to justice	12346
Fire department, unlawfully issuing certificates of exemption.	11526
Force, right to use, when	10980
Illegal interest in contracts	10827
Impeachment of, preserved	10716
Impeachment, when and how—See Impeachment	11668-11686
Inhumanity to prisoners	10922
Judicial—See Judicial Officers	
Ministerial officers subject to what laws	10833
Neglecting duty as to gambling, forfeiture	11171
Neglecting duty as to gambling, punishment	11171
Not to disclose filing of information	11628

OFFICERS (Continued)

Of schools, bribery	10862
Offenses by and against—See Public Officers	10821-10863
Omission of duty by, punishment for	10950
Oppression	11394
Oppression under color of authority	10952
Peace officers—See Peace Officers	
Penalty for acting without qualifying	10821
Permitting escapes	10869
Personating forbidden	10926, 10927
Police, rescue of prisoners from..	10864
Proceedings for removal, how instituted	11799
Public moneys wrongful acts of.	11318
Purchasing scrip, forbidden when	10827
Receiving pay for arrest of fugitives	10919
Receiving reward for appointing deputy	10830
Records, destruction of, by	10873
Refusal to	
arrest criminals	10916
lend aid to, in arrest.	10930
pay over public moneys.	11319
surrender books to successor..	10832
Removal by summary proceedings	11702
Removal for non-enforcement prohibition laws	11117
Removal on accusation presented by grand jury	11688
accusations, etc., where filed...	11800
delivery to county attorney.	11690
answer upon overruling of objections	11695
appeal, how taken	11700
attendance of witnesses	11698
copy of accusation to county attorney	11690
costs	11702
county attorney, procedure for removal	11701
demurrer or answer	11692
denial, how entered	11694
failure of defendant to appear.	11691
for malfeasance or misfeasance	11687
form of objection to accusation	11689
from office, appeal	11700
from office, when	11588
how prosecuted	11799
illegal fees	11702
judgment of conviction	11699
manner of denial of accusation of county attorney, procedure..	11701
proceedings if defendant does not appear	11691
process for witnesses	11698
service of accusation	11690
trial by jury	11697
trial of accusation, when	11696
vacancy pending appeal	11700
what officers subject to	11687
when to be summary	11702
Resistance to	10928, 11655, 11656
Riots, commanding dispersal	11658

INDEX TO PENAL CODE.

OFFICERS (Continued)

Seizure of gambling devices	11166
Summary proceedings to remove..	11702
Suspension of, preserved	10716
When not punishable for neglect of duty	11589
When use of force not unlawful..	10980
Wilful omission of duty	10950
Wrongful holding over after suc- cessor elected	10831

OLEOMARGARINE

Label required	11248
penalty for violation of act....	11250
printed notice	11249

OMISSIONS

When not punishable	11589
---------------------------	-------

OPIATES

Improper sale of	11239
------------------------	-------

OPIUM

Abatement of buildings where used	11123-11133
Keeping or resorting to place where used	11045
Sale, when and to whom forbidden	11239
exceptions	11239

OPPRESSION

By officers under color of author- ity	10952
Under color of official right	11394

ORDER OF TRIAL

Designation of	11969
----------------------	-------

ORDERS

See specific subject treated	
------------------------------	--

ORDINANCES

How referred to in police courts.	12302
Void if in conflict with gambling law	11179

ORE

Changing samples for assay.....	11420
Making false samples of	11421

OVERCHARGE

By railroad employees	11401
-----------------------------	-------

OVERT ACT

Evidence on trial for conspiracy.	10900
Evidence on trial for treason....	11978

PALMISTS

See Fortune Tellers	11522-11524
---------------------------	-------------

PANEL

Challenge to defined	11944
upon what founded	11945
when and how taken	11946
Defined	11943

PAPER MONEY

Unlawful issuance of	11525
----------------------------	-------

PAPERS

Refusal to surrender to successor	10832
Service on prisoners	12480

PAPERS (Continued)

To be taken by jury on retire- ment	12011
--	-------

PARDONS

Application for parole, how con- sidered	12266
Board of pardons board to convene for considera- tion of pardons, when	12249
composition	12247
counsel may be heard	12254
decision and dissent to be re- corded	12256
meetings of the board	12248
order fixing time for hearing form of	12250
papers to be transmitted to sec- retary of state	12255
pardons to be approved by	12247
proof of publication	12252
publication not necessary, when	12261
publication of order, how made	12251
record of meeting, contents of	12253
record of proceedings, contents of	12257
rules, power to prescribe	12258
Citizenship, power of governor to restore	12263
Commutations, power of governor to grant	12247
Governor may require report from judge.	12260
may respite	12262
to report pardons to legislature	12259
Paroled prisoners still in legal custody	12265
Power of governor to grant	12247
Prisoners, how paroled	12264
Respite, power of governor to grant	12262

PAREGORIC

Excluded from sale of opiates...	11239
----------------------------------	-------

PARENT AND CHILD

See also Children	
See also Juvenile Delinquents...	12275-12301
See also Montana State Industrial School	12488-12515
Desertion of children	11026
Disposing of child for mendicant purposes	11021
Penalty for improper training of children	12293
Use of firearms by children pro- hibited	11565

PARKS

Injury to trees in	11497
--------------------------	-------

PAROLE

See also Suspended Sentence.....	12078-12086
Application for parole, how con- sidered	12266
On indeterminate sentence	12076

INDEX TO PENAL CODE.

PAROLE (Continued)

Paroled prisoners still in legal custody	12265
Prisoners, how paroled	12264

PAROLE COMMISSIONER, STATE

Appointment	12516
Duties	12517
Paroles, duties concerning	12517
Salary	12518
Term of office	12516

PARTIES

To	
crime, classification of	10731
criminal action	11609
special proceedings, how designated	12429

PARTNERSHIPS

Pleading as to property	11869
-------------------------------	-------

PASSENGER CARS

Placing in front of freight forbidden	11254
---	-------

PASSENGERS

Expulsion by carriers, use of force	10980
Refusal of railroads to receive	11218

PATENT MEDICINES

Excepted from prohibition law	11050
-------------------------------------	-------

PAUPER'S OATH

Release from imprisonment	12071
---------------------------------	-------

PAWNBROKERS

Conducting business without license	11184
Interest rate	11186
Register, duty to keep	11185
Register, failure to produce for inspection	11187

PEACE

See also Security to Keep the Peace	11637-11652
Bringing armed men into state forbidden, when	11315
Disturbance of	11297
Duty of mayor to order force to preserve, when	11305, 11654

PEACE OFFICERS

Arrest with or without warrant, when	11753
Defined	10713, 11620
Duties concerning stolen property—See Stolen Property	12240-12246
Duties in enforcement of prohibition law—See Intoxicating Liquors	11048-11133
Duty	
to arrest violators of prohibition law	11106
to furnish evidence of violations of prohibition laws	11116
to prevent duels	10985
Intervention to prevent crime ..	11635

PEACE OFFICERS (Continued)

May	
break in doors, when	11761, 11762
carry concealed weapons	11304
kill disabled animals, when	11509
Persons aiding in prevention of crime justified	11636
Refusal to arrest persons, penalty for	10916
Removal for failure to perform duty concerning prohibition law, procedure	11117
Trainmen are, when	11570
Warrants directed to	11735-11737
Warrants executed by	11735-11737
Who are	11620

PEACE, SECURITY TO KEEP

See Security to Keep the Peace ..	11637-11652
-----------------------------------	-------------

PEDIGREE

False pedigree of animals	11417
Selling under false	11418

PENAL CODE

Civil remedies not barred by	10715
Construed, how	10710
Court-martial, authority of preserved	10717
Definitions	10713
Effect of, upon past offenses	10712
Effective, when	10709
Parts of	10708
Proceedings to remove officers, preserved	10716

PENALTIES

See also Punishment	
Recoverable in civil action	10715

PENITENTIARY

See State Prison	12434-12465
Rescues and escapes—See Rescues and Escapes	

PEREMPTORY CHALLENGES

Number of	11955
When and how taken	11954

PERJURY

Defined	10878
Depositions and certificates, when deemed complete	10886
False testimony before legislature, penalty	10881, 10882
Incompetency of witnesses no defense	10884
Irregularity in administering oath no defense	10883
Knowledge of materiality of testimony not necessary	10885
Oath defined	10879, 10880
Penalty for procuring execution of innocent person by	10890
Pleading in information, when sufficient	11859
Punishment	10888
Statement of untruth not known, effect of	10887

INDEX TO PENAL CODE.

PERJURY (Continued)

Subornation defined	10889
Testimony of witness to be read against him, when	10720
Violation of corrupt practices act, who deemed guilty	10820

PERSON

Indecent exposure of	11136
Term includes corporations	10713
Word construed under corrupt practices act	10775

PERSONAL INJURIES

Release of liability for unlawful.	11402
---	-------

PERSONAL PROPERTY

Defined	10713
Fraudulent sales	11432
Removal of mortgaged	11416
Sale of mortgaged	11416

PERSONATION

Of peace officers forbidden.	10926, 10927
Of voters forbidden, punishment.	10795

PERSONATION, FALSE

See False Personation	11406-11409
-----------------------------	-------------

PERSONS

When capable of crime	10729
Who liable to punishment	10730

PERSONS OF SOUND MIND

Right to use force to control.	10980
Who are	10727

PESTHOUSE

Within city limits forbidden	11234
-----------------------------------	-------

PETIT LARCENY

See Larceny	11372-11374
-------------------	-------------

PETIT TREASON

Abolished	10958
-----------------	-------

PHARMACISTS—See Druggists

PHYSICIANS

Acts while intoxicated, punish- ment for	11193
May be summoned to inquest.	12383
Permits for use of intoxicating liquor — See Intoxicating Liquors	11048-11133

PICTURES

Injuring and mutilating	11498
Moving pictures of crimes for- bidden	11567
Publishing of obscene	11135

PIPE LINES

Breaking or obstructing, punish- ment	11499
--	-------

PISTOLS

See also Weapons	
Magistrates to destroy	11312
Mayors to enforce act	11313
Sale of toy pistols, caps, etc., prohibited	11310
seizure as public nuisance	11311

PLACE OF TRIAL

See Jurisdiction	
Change of—See Change of Venue	11916-11927

PLEA

A pleading of defendant	11896
Defendant entitled to two days for preparation	11935
Effect of conviction or acquittal for higher offense	11914
Former acquittal form of	11908
what constitutes	11913
what is not	11912
Former conviction form of	11908
or acquittal, form of verdict.	12020
Kinds of	11907
Not guilty to be entered, when.	11915
Of guilty, how put in	11909
Of not guilty, puts in issue, what What may be given in evidence under "not guilty"	11910 11911
When put in	11897

PLEADINGS

See also Complaint, Indictment, Information, Demurrer, Plea	
Actions to recover money lost at gambling	11175, 11176
Affidavits defectively entitled, when valid	11873
Amendment on trial, when	11870
By state, directness and certainty Complaint in justices' or police courts	11845 12302
Construction of words and phrases	11850, 11851
Demurrer—See Demurrer	11896-11906
Errors or mistakes immaterial.	11874
First pleading of state	11842
Forgery, where instrument de- stroyed or withheld	11853
Form of, how determined	11841
Indictment and information allegations as to partnership property, when sufficient	11869
construction of words used.	11850
contents of	11843
defects not affecting substan- tial rights, effect of	11853
different actions may be used.	11847
effect of erroneous statement as to person injured	11849
embezzlement, pleading, when sufficient	11860
fictitious name, procedure on use of	11846
forgery, misdescription in in- strument immaterial, when.	11858
form of	11844
judgment, how pleaded	11855
larceny, pleading, when suffi- cient	11860
libel, how pleaded	11857
must be direct and certain	11845
must charge but one offense.	11847

INDEX TO PENAL CODE.

PLEADINGS (Continued)

Indictment and information (continued)	
obscenity, pleading, when sufficient	11861
perjury, pleading, when sufficient	11859
presumptions not to be stated.	11854
private statutes, how pleaded..	11856
time of commission of offense, how stated	11848
when sufficient	11852
words used in statute not to be strictly followed	11851
Judgments	11855
Larceny or embezzlement.	11860
Libel	11857
Maintaining nuisance in violation of intoxicating liquor laws—See Intoxicating Liquors....	11066-11070
Of defendant	11896
on arraignment	11890
On disallowance of demurrer, defendant must plead	11905
Partnership property	11869
Perjury or subornation	11859
Presumptions of law need not be stated	11854
Private statutes	11856
Rules of, which govern	11841

PLEDGES

See also Pawnbrokers	11184-11187
Property stored in warehouse....	11463

POISONING

See also Homicide	
Animals, punishment for...	11512-11515
Assaults by means of poison....	10976, 10977
Food or water, punishment for...	11194

POLICE

Breaking into buildings where games played	11168
Duty as to gambling	11169
Execution of justices' judgment..	12326
Intervention to prevent crime...	11635
Officers	
peace officers	11620
persons aiding in prevention of crime	11636
preventing crime	11635, 11636
Organization and regulation	11653
Preserving peace at public meetings	11654
Protection of gambling a felony.	11172
Receipt for money, etc., taken from prisoner	11245
Record of money, etc., taken from prisoner	12246
Record of stolen property kept by	12246
Warrant of arrest, execution by..	11735-11737

POLICE COURTS

See Justices' and Police Courts..	12302-12347
Judges are magistrates	11619

POLICIES

Presenting false proof of loss upon	11427
-------------------------------------	-------

POLITICAL AGENT

Terms construed	10775
-----------------	-------

POLITICAL COMMITTEE

See Corrupt Practices Act..	10773-10818
-----------------------------	-------------

POLITICAL CRIMINAL LIBEL

Defined	10800
---------	-------

POLITICAL MEETINGS

Penalty for disturbing	10765
------------------------	-------

POLL TAX

Possessing unauthorized blank receipts	11326
Use of unauthorized receipts	11325

POLLING

Of jury, how and when	12032
-----------------------	-------

POOLHALLS

Certain games forbidden	11188
punishment for playing	11189
Closing hour for	11190
Minors not to frequent	11191
Penalty for admitting minors	11191
Punishment	11192

POOLING

See Restraint of Trade....	10912, 10913
----------------------------	--------------

POOLS

By public warehouses forbidden.	10912
penalty for violation of act....	10913

POOR

Imprisonment paupers for fines and costs	12071, 12072
--	--------------

POSSE COMITATUS

Power of sheriff	11655
Refusal to join	10930

POSSESSION

Deadly weapon with intent to assault	11354
Of burglarious instruments....	11353
Of counterfeits, felony	11364

POST MORTEM

See Coroner's Inquest	12381-12393
-----------------------	-------------

POSTERS

Attaching to public property...	11481
---------------------------------	-------

POSTPONEMENT

Affidavits for	11936
Cause for	11937
Court may postpone trial, when..	11937
Dismissal of action, when.....	12223
Effect of failure to apply in time.	11939
Examination, course to be pursued by magistrate	11776
Justices' or police courts	12314
verbal notice to witnesses sufficient, when	12315
Trial	
for cause	11937-11939
notice and affidavit.....	11936-11938

INDEX TO PENAL CODE.

POSTPONEMENT (Continued)

- Trial (continued)
- state may have 11938
- time for application..... 11936

POUND

- Failure to feed animals in 11510

POWDER—See Explosives

PREGNANCY

- Female, proceedings on execution of judgment of death... ..12099, 12100

PREJUDICE

- Immaterial errors not prejudicial 11874

PRELIMINARY EXAMINATION

- See Examination11773-11797
- Defendant may waive 11797
- Of corporations12230-12234
- Search of accused for weapons... 12414

PREMISES

- Returning to, after legal eviction 11301

PRESCRIPTIONS—See Druggists

PRESENCE

- Defendant, when necessary—See Defendant

PRESENT TENSE

- Includes future 10713

PRESUMPTION OF INNOCENCE

- Of defendant 11971

PRESUMPTIONS

- Assent of director of corporations, when11451, 11452
- Defendant presumed innocent... 11971
- Directors' knowledge of corporation's affairs 11450
- Of law, pleading in indictment or information unnecessary.. 11854
- Of malice in libel 10991
- privileged communications 10997

PRETENSE—See False Pretense

PRINCIPALS

- Certain distinction between principals and accessories abolished 11863
- Defined 10732
- Jurisdictions of actions against, when not present 11718
- Landlord letting building for gambling 11177

PRIOR CONVICTION

- Bar when—See Bar
- Jury to find on charge of 12023

PRISON

- See also Prison-made Goods.11572, 11573
- County jails—See Jails12466-12487
- Grand jury
- to have access to 11828
- to inquire into conditions 11829

PRISON (Continued)

- State prison—See State Prison.. ..12434-12465

PRISON COMMISSIONERS, STATE BOARD OF

- See State Prison12434-12465
- Application for parole, how considered 12266
- Paroled prisoners still in legal custody 12265
- Paroles, power to grant 12264
- Powers concerning suspended sentence—See Sentence....12078-12084

PRISON GUARDS

- Hours of labor for 12441
- penalty for violation of act.... 12442

PRISONERS

- See also Convicts
- See also Jails12466-12487
- See also State Prison
- Application for parole, how considered 12266
- Attendance at court, how procured 12432
- Delay in taking before magistrate 10920
- Discharge of pauper prisoner, when 12071
- Escapes—See Rescues and Escapes 10864-10872
- from jails 10868
- state prison 10866
- How produced as witnesses 12186
- Inhumanity to 10922
- Pardon of—See Pardons...12247-12266
- Paroled, how12264-12266
- Paroled prisoners still in legal custody 12265
- Persons assisting escapes...10870, 10871
- Poor, payment of fines and costs, how 12071
- Practice of third degree methods upon, forbidden10923, 10924
- Procedure to bring before court of another county 12432
- Rescue of 10864
- Third degree methods, use prohibited10923, 10924
- Unauthorized communication with 10949

PRISON-MADE GOODS

- To be marked when offered for sale 11572
- punishment for violation 11573

PRIVATE PERSONS

- Arrests by, when11754, 11755
- Duty when making arrest ..11764-11766

PRIVATE STATUTES

- How pleaded 11856

PRIVILEGE OF WITNESSES

- See Witnesses

PRIVILEGED COMMUNICATIONS

- What constitutes in libel suits... ..10995-10997

INDEX TO PENAL CODE.

PRIZEFIGHTS

- See also County Athletic Commission in Political Code
- Jurisdiction of actions 11721
- Leaving state to engage in 11295
- Promoting forbidden 11293
- Spectators guilty of misdemeanor 11294

PROBABLE CAUSE

- Arrest without, discharge on habeas corpus 12362
- Certificate of, stay 12113
- Search-warrant to issue upon 12396

PROBATE PROCEEDINGS

- Public administrator, penalty for violation of duty 10917
- Reports, duty of executors, etc., to file 10918
- removal for failure 10918

PROBATION

- See Sentence12078-12084

PROBATION OFFICERS

- See Juvenile Delinquents...12275-12301

PROCEEDINGS AGAINST CORPORATIONS

- See Corporations 12230-12239

PROCEEDINGS AGAINST FUGITIVES FROM JUSTICE

- See Fugitives from Justice.12415-12428

PROCEEDINGS IN BASTARDY

- See Bastardy, Proceedings In.... 12267-12274

PROCESS

- Defective, discharge on habeas corpus 12362
- Disobedience, criminal attempt .. 10944
- Execution, resistance, calling out of militia 11657
- Grand jury may cause issuance... 11824
- Habeas corpus, who to issue.... 12378
- On habeas corpus, may issue at any time 12377
- On prisoner, sheriff to receive and deliver 12480
- Overcoming resistance to execution of—See Riots11655, 11656
- Penalty for, arrest, or levy upon property without 10921
- Removal from office, parties entitled to 11698
- Resistance
 - contempt 11656
 - criminal contempt 10944
 - power of sheriff 11655
- proclaiming county in insurrection 11666
- when county in insurrection ... 11292
- Subpoena defined 12179
- Witness at inquisition of insanity of defendant 12096

PROCLAMATIONS

- Destruction of 11491

PROFANE LANGUAGE

- Disturbance of peace, when..... 11297

PROHIBITION

- See Intoxicating Liquors...11048-11133

PROMISES

- Appointment to office forbidden.. 10784

PROMISSORY NOTES—See Negotiable Instruments

PROOF

- See also Evidence
- Burden shifts in murder trial, when 11980
- Corporate existence, etc. ...11983-11985
- Of corpus delicti, in homicide...10962
- Physical ability of minor to commit rape 11001

PROPERTY

- See also Personal Property
- See also Real Property
- See also Stolen Property
- Burning of insured, felony 11426
- Defense of, when force not unlawful 10980
- Definition 10713
- Forfeitures on conviction abolished 11605
- Fraudulent conveyances, receiving of 11434
- Injury to, jurisdiction of justices' courts 11630
- Lost, larceny 11376
- Receiving, under false personation 11409
- Secreting or conveying to avoid levy 11433
- Value, jury to find 12026

PROSECUTION

- By indictment, when 11629
- By information, when 11623
- Causes on calendar, disposal 11934
- Crime, how prosecuted 11798
- Dismissal, when 12223
- when bar, when not 12229
- For second offense, when forbidden 11612
- How, in district courts ...11622, 11623
- How, in justices' courts 11621
- Impeachment no bar to 11686
- In name of state 11609
- Malicious, for security to keep the peace, costs 11650
- Of impeachment, proceedings... 11670
- Order of disposal on calendar... 11934
- Prosecutor to pay costs, when... 12070
- in justice court, when 12331
- Public offenses, how 11607
- Second, for same offense, prohibited 11612
- Undertaking to keep peace, when and how prosecuted 11648

PROSTITUTION

- Abatement buildings as nuisance. 11124
- Admission of minors to houses of 11046
- Buildings used for, declared nuisance, abatement11124-11133

INDEX TO PENAL CODE.

PROSTITUTION (Continued)

Enticing to place of	11143
Keeping disorderly houses..	11140, 11141
Keeping for immoral purposes forbidden	11008-11016
Keeping or residing in house of ill-fame	11140
Kidnaping for, jurisdiction	11710
Living with common prostitute..	11016
Procuring to reside in house of ill- fame	11009, 11010
Receiving money from earnings of prostitute	11015
Receiving or paying money for causing immoral acts..	11011-11013
Reformatory institutions, admis- sion of women to.....	12547-12552
Transportation of women for, a felony	11008-11016
Unlawful restraint in house of prostitution	11014
Vagrancy	11521

PROVISIONS—See Food

PUBLIC ADMINISTRATOR

Penalty for failure to perform duties	10917
--	-------

PUBLIC BUILDINGS

Defacing, punishment	11506
Fire escapes, requirements con- cerning—See Hotels.....	2779- 2785
Unsafe exits	11266

PUBLIC HEALTH—See Health

PUBLIC HIGHWAY

Placing carcasses in	11235
----------------------------	-------

PUBLIC LIBRARY

Destroying books, etc., in.....	11498
---------------------------------	-------

PUBLIC MEETINGS

Disturbance of	11284
Mayor to order force to preserve peace at	11654

PUBLIC MONEYS

Definition	11320
Officers refusing to pay over....	11319
Wrongful acts of officers.....	11318

PUBLIC NUISANCES

Abatement when maintained in violation prohibition law— See Intoxicating Liquors...	11066, 11123-11133
Dead animals in streets, rivers, etc.	11235
Defined	11231
Pesthouses, when	11234
Punishment for maintenance....	11233
Unequal damages for	11232

PUBLIC OFFENSES

Conviction for, what necessary to constitute	11614
Defined	10721
Duty of county attorney to in- quire concerning	11802

PUBLIC OFFENSES (Continued)

How prosecuted	11607, 11798
Jurisdiction of—See Jurisdiction	11703-11721
Prevention by intervention of officers, when persons acting in aid of officers, when justified	11635 11636
Punishable on legal conviction..	11606
prosecuted, how	11607

PUBLIC OFFICE

See also Officers and Public Officers	
Assumption without right	10821
Exception	10822
Intruding into	10831
Term construed under corrupt practices act	10775

PUBLIC OFFICERS

See also Officers	
See also Peace Officers	
Acting as, without oath and bond forbidden	10821
acts of defacto officers not af- fected	10822
Arrests by—See Arrests	
Assaults under color of authority	10929
Bribery of	10842-10849
Buying appointments forbidden..	10829
Delay in taking persons arrested before magistrate	10920
Disenfranchised as, penalty, when	10861
Duties concerning prohibition law—See Intoxicating Liquors	
Embezzlement by, what constitutes	11318
Executive officers, asking or re- ceiving bribes	10824
Exercising functions of office wrongfully	10831
Extortion, penalty for	10826
Failure to pay over fines, penalty	11321
False certificates by.....	10945
Force, right to use, when	10980
Giving or offering bribes to, for- bidden	10823
Illegal interest in contracts, pen- alty	10827
Impeachment, when and how— See Impeachment	11668-11686
Judicial officers—See Judicial Officers	
Larceny of records by	10873
Making profit from public money forbidden	11318
Neglect to pay over moneys....	11319
No reward for arrest fugitives from justice	12428
Obstructing officers	11322
Omission of duty by, punishment for	10950
Oppression and injury by.....	10952
Oppression under color of official right	11394
Penalty for exercising functions without qualifying	10821
Penalty for failure to receive per- son arrested	10916

INDEX TO PENAL CODE.

PUBLIC OFFICERS (Continued)

Presenting fraudulent claims, penalty	10828
Proceedings for removal, how instituted	11799
Public moneys defined	11320
Punishment by removal from office in discretion of court	11588
Purchasing scrip forbidden, when	10827
Receipt of money a felony, when	11114
Receiving excessive fees, punishment	11395
Refusal to permit inspection by revenue officers	11330
Refusal to surrender books to successor	10832
Refusing to aid in arrest	10930
Removal for nonenforcement of prohibition laws	11117
of officers in addition to penalty otherwise than by impeachment —See Removal of Public Officers	11687-11702
Resisting executive officers	10825
in discharge of duties	10928
officers, penalty for	10825
Taking rewards for appointment to office	10830
To what officers laws applicable	10833

PUBLIC PEACE

Disturbance a misdemeanor	11297
--------------------------------	-------

PUBLIC PLACES

Exposing person with contagious disease	11257
---	-------

PUBLIC PROPERTY

Trespass upon acts constituting	11335
exceptions	11336

PUBLIC RECORDS

Larceny or destruction of—See Larceny	10873-10877
---	-------------

PUBLIC UTILITIES

Contributions for political purposes forbidden	10790
--	-------

PUBLIC WAREHOUSEMEN

Pooling by, forbidden	10912
penalty for violation of act... ..	10913

PUBLICATION

Giving false information for....	10999
In libel, defined	10993
Notice of appeal	12111
Of true report of public proceeding, when not libel	10995
Order for hearing of application for pardon	12251, 12252
Threatening to publish libel	10998

PUNISHMENT

See specific offenses	
See also Criminal Offenses	
See also Sentence	12075-12086

PUNISHMENT (Continued)

Accessories	10734
Acts punishable under foreign law under different provisions of code	11582 11581
Aiding in misdemeanor	11586
Assessment by jury, error, duty of court	10929-12030
justice may modify	12328
Attempts, how punishable	11590-11592
Civil death	11601
limitations	11602
Civil rights suspended	11600
limitations	11602
Commutation by governor	12247
Commutation to commitment to vocational school, when	
Contempt also punishable as crime	11584
Court may reduce, when	12031
to assess, when.....	12028-12030
to declare, when	12028
to pass sentence, when	10718
Death, how inflicted	12102
Determined, how	10719
Different provisions, procedure..	11581
Disobedience to subpoena for coroner's inquest	12384
Felony, when not otherwise prescribed	10725
Fine and costs, duration of imprisonment	12069
Fine may be added to imprisonment	11599
Foreign conviction for former offense, effect of	11595
Foreign conviction or acquittal, defense	11583
Found by jury, court may reduce.	12031
Governor may commute	12247
How determined between certain limits	10719
Imprisonment, civil death, when.	11601
Imprisonment commences to run, when	11597
Jury may assess, when.....	12027
Justices' courts, jury may fix	12327
Legal conviction necessary.....	11606
Life imprisonment, court may sentence to, when	11598
Misdemeanor, where not prescribed	10725
Mitigation of	11585
or aggravation, hearing..	12067, 12068
Of accessories	10734
convicts, rules governing	12454
insane persons —See Insane Persons	12213-12219
Offense commenced without, but committed in state	11704
Offense committed in state, jurisdiction	11703
Officers, neglect of duty, removal from office	11588
Omission to perform duty, when not punishable	11589
Persons liable	10730

INDEX TO PENAL CODE.

PUNISHMENT (Continued)

Prior conviction	11593
in foreign state	11595
of attempts	11594
Removal from office in discretion	
of court	11588
Robbery	10975
Second offense	11581
how punished after conviction	
of attempt to commit	11594
of former offense	11593
Second term of imprisonment,	
when to commence	11596
Term of imprisonment commences,	
when	11597
Treason	10735
When not prescribed in code....	10951
Who liable to	10730
Who to impose	10718

PUNISHMENTS—See Criminal Of-
fenses

QUARANTINE

Sheep and other livestock—See	
Livestock	11535-11540

QUARRELING

Disturbance of peace.....	11297
---------------------------	-------

QUASHING

Indictment on information, pro- cedure	11891-11895
---	-------------

QUESTIONS OF LAW

Court to decide during trial.	12001-12004
Libel, jury to decide	12003

RACES

Name and class of horses to be in- dicated	11560
Unlawful entries prohibited	11559

RACING BETS

Act, when effective	11183
Principals, who deemed	11181
Punishment	11182
Unlawful	11180

RAFTS

Burning or setting adrift	11488
---------------------------------	-------

RAILROADS

See also Bills of Lading	
See also Carriers	
Acts causing death punished as murder	11470
Carrying animals in cruel manner	11511
Collisions, death from	11230
Corporations, violations of duty by	11256
Counterfeiting tickets	11366
Destruction of property	11468
Disturbance of passengers on ...	11316
Disturbance, police power of con- ductors	11317
Driving animals upon	11555
Duplicate receipts to be marked.	11462
Dynamiting	11468
Employees, intoxication while on duty	11253

RAILROADS (Continued)

Excessive charges misdemeanor..	11401
Expelling passengers, use of force	10980
Fictitious bills of lading, punish- ment for issuance	11459
Freight car, definition	11254
Good faith in issuance, when de- fense	11460
Holdups or intimidation of crews	11468
Intoxicating liquors, duties con- cerning — See Intoxicating Liquors	11048-11133
Intoxication of engineers, con- ductors and others forbidden	11253
Issuing fictitious bills of lading.	11459
Killing of livestock	11278
Larceny of tickets	11378
Liability of employees for death from negligent collision	11230
Malicious injury to property crimes heretofore committed, how affected	11471
Malicious injury to rolling-stock and motive power	11468
Moving pictures of train robberies prohibited	11567
Offenses committed on cars, juris- diction	11709
Officers contracting certain debts, misdemeanor	11448
Overcharge by employees, penalty	11401
Placing freight cars in rear of passenger cars	11254
Receiving illegal fares, punish- ment	11401
Refusal to receive passenger....	11218
Regulations, penalty for violating	11279
Removal of waste from loco- motives	11472
Restoring canceled tickets, mis- demeanor	11367
Sale of property received for transportation, penalty	11463
Standing rewards for holdups...	12416
Stealing rides on brakebeams, etc., upon cars or locomotives prohibited	11568
Tickets, counterfeiting of	11366
Trainmen intoxicated	11253
Trainmen, peace officers for cer- tain purposes	11570
Transportation	
diseased cattle under quarantine	11539
intoxicating liquors by—See In- toxicating Liquors	11048-11133
scabby sheep	
Unauthorized sale of property by, when	11463
Validity of debts not affected...	11449
Violation of duty by employees..	11255
Violation of duty by roads....	11256
Wilful violation of duty	11255
Wrecking of trains	11468-11471

RANGE

Diseased animals running at large.	11556
Driving cattle from, forbidden...	11549
Moving diseased sheep over	11537

INDEX TO PENAL CODE.

RAPE

Defined	11000
Penetration sufficient	11002
Physical ability must be proved, when	11001
Punishment	11003

REAL ESTATE

Definition of term	10713
Dispossession unlawful	11394
False representation by married person	11413
Fixtures, larceny	11380
Fraudulent conveyances	11432
Husband or wife selling, under false representations	11413
Liability of parties on bail bond	12165
Lien, filing of complaint in bas- tardy	12269
Lien, judgment for fine	12073
Malicious injury to	11481
Retaking possession after lawfully removed from	11301
Selling twice	11412

REASONABLE DOUBT

As to degree of offense, result of	11972
Defendant entitled to acquittal, when	11971

RECEIPTS

Delivery of unauthorized polltax and other receipts	11325
For goods taken from persons arrested	12245
For property taken on search- warrant	12406
Issuing fictitious, when prohibited	11459
Possessing unauthorized blank re- ceipts	11326

RECEIVING STOLEN PROPERTY

Larceny out of state, jurisdiction	11715
see also Larceny	
Punishment for	11388

RECOMMITMENT

Defendant after giving bail, when and how	12167-12174
--	-------------

RECORD

Contents, on appeal in criminal cases	12045
For review by supreme court on appeal, what constitutes	12045
Judgment-roll, what constitutes	12074
On appeal in criminal cases, con- tents	12045
Transcript of matters of court, authorized	12045
Written instructions part of	12043

RECORDING CONVEYANCES

Offering forged instruments for record	10875
---	-------

RECORDS

Destruction of	10874
by officers	10873
False entries in, forgery	11356

RECORDS (Continued)

False, of marriage	11213
Of livestock sold at auction, fail- ure to keep	11541
Of trademarks and labels, evi- dence	11206
Offering false instrument for record	10875

RED FLAG

Exhibition of, prohibited where	10745
Penalty	10746

REFEREES

Corrupt conduct of	10857
Embracery, punishment	10858
Improper influencing of	10856
Offering bribes to	10853
Receiving bribes	10854

REFORM SCHOOL

See Montana State Industrial School	12488-12515
--	-------------

REFUSAL TO DISPERSE

Punishment for	11298
----------------------	-------

REGISTER

Pawnbroker's, failure to keep....	11185
Pawnbroker's, open to inspection	11187

REGISTRATION

Fraudulent, punishment for	10748
Officers violating laws, punish- ment	10747

RELIGIOUS WORSHIP

Disturbance of	11042
Selling merchandise at camp- meetings	11043, 11044

REMITTITUR

Of judgment on appeal	12131
-----------------------------	-------

REMOVAL OF PUBLIC OFFICERS

See also Impeachment....	11668-11686
By proceedings other than im- peachment	
accusation	
by whom presented	11688
form of	11689
service and filing	11690
to be transmitted to county attorney	11690
all officers subject to	11687
answer by defendant	11695
appeal, how taken,	11700
county attorney, procedure for removal of	11701
defendant may answer accusa- tion, how	11692
duty of defendant to appear	11691
fees, summary removal for il- legal collection, procedure	11702
form of accusation	11689
form of objection to accusa- tion	11693
judgment on conviction, how entered	11699
manner of denial	11694

INDEX TO PENAL CODE.

REMOVAL OF PUBLIC OFFICERS

(Continued)

- By proceedings other than impeachment (continued)
 - procedure
 - on overruling objections..... 11695
 - on plea of guilty 11696
 - on refusal to answer 11696
 - proceedings if defendant does not appear 11691
 - process for attendance of witness 11698
 - summary procedure for removal of officers, when 11702
 - suspension from office, when .. 11700
 - trial by jury 11697
 - vacancy, how filled 11700
 - who subject to removal 11687
- Court may remove in addition to penalty 11588
- For nonenforcement prohibition laws 11117
- Proceedings, how commenced.... 11799, 11800
- Summary proceedings for removal of 11702

REMOVING LANDMARKS

- Punishment for 11484

REPORTERS—See Newspapers—
See Stenographers

REPRIEVES—See Pardons

REPUTATION

- Proof of corporations by, in criminal cases11983, 11985

RESCUES AND ESCAPES

- Assisting prisoner to escape, penalty for 10870
- Carrying into prison things in aid of 10871
- Escapes from
 - other than state prison 10868
 - state prison, attempts 10867
 - state prison, penalty for 10866
- Expenses of trial for escape 10872
- In time of insurrection 11292
- Officers suffering convicts to escape, penalty for 10869
- Receiving fees for service in arresting fugitives 10919
- Rescuing prisoners, penalty for. 10864
- Retaking goods from custody of officer 10865

RESERVOIRS

- Interference with 11467
- Malicious destruction, punishment 11487
- Violation of safety regulations.. 11280

RESISTANCE

- After county declared in state of insurrection 11292
- Lawful resistance, what constitutes 11633, 11634
- Of process, criminal contempt... 10944

RESISTANCE (Continued)

To

- commission of crime, by whom 11632
- execution of process
 - calling militia 11657
 - contempt 11656
 - power of sheriff 11655
 - proclaiming county in insurrection 11666
- officers 10825
- public officers 10928

RESPITES

- Governor may grant 12247-12262

RESTAURANTS

- Possession of adulterated foods, prima facie evidence 11247
- Serving adulterated foods, notice 11245, 11246
- Use of oleomargarine, posting notice 11249

RESTRAINT

- Degree allowed on arrests 11752
- Necessary, only permissible 11613
- Of insane person, use of force... 10980

RESTRAINT OF TRADE

- Agreements between laborers excepted 10902
- Article of commerce defined 10901
- Certain trusts and combinations forbidden 10901
- Cumulative nature of act.. 10907-10911
- Discrimination in sale price of commodities forbidden 10908
- in purchase price forbidden... 10904
- Food, destruction of, forbidden.. 10914
- penalty for violation of act... 10915
- Investigation and action by attorney-general10905, 10909
- Penalty for violation of act.10906, 10910
- Persons not excused from testifying 10903
- Pooling by public warehouses forbidden 10912
- penalty for violation of act... 10913
- Prosecution by attorney-general . 10908
- Unfair discrimination in purchase of commodities forbidden... 10904

RETAKING—See Escapes

RETIREMENT

- Of jury—See Juries 12009-12016

RETRIAL

- When jury discharged without verdict 12015

REVENUE

- Obstructing officers collecting.... 11322
- Refusal of officers to permit inspection of books 11330

REVERSAL

- Argument necessary on appeals to supreme court 12122

INDEX TO PENAL CODE.

REVERSAL (Continued)

- Defendant discharged on reversal of judgment 12129
- Errors as grounds for, to be accepted to 11969

REVIEW—See Appeals

REWARDS

- For arrest of fugitives from state industrial school 12512
- For fugitives from justice, when offered 12415
- Payment of reward, how made... 12417
- Standing reward, when offered .. 12416

RIGHT OF ACTION

- By wife and others for damages from sale of intoxicating liquor 11065

RIGHTS

- Of defendant in criminal action 11611

RIOTS

- Armed forces to obey, whom 11662
- Arrest of rioters upon refusal to disperse 11659
- Conduct of troops, how 11664
- Definition 11285
- Endeavors to disperse without danger to life..... 11665
- Execution of process, militia ordered out to aid in, when.... 11657
- Failure to disperse, misdemeanor 11290
- Governor, duty to call militia, when 11657
- Governor may declare county in state of insurrection..... 11666
- revocation of proclamation, when 11667
- Jurisdiction of justices' courts... 11630
- Magistrate refusing to disperse rioters 11291
- Militia firing upon mob commanding officer to use discretion 11664
- regulations 11664
- to obey
 - call of governor..... 11661
 - orders of civil officers, when. 11662
 - sheriff, when 11663
- Militia, who may order out 11660
- commanding officers and troops to obey order.....11661, 11662
- Names of persons resisting, certified to court 11656
- Officers to command dispersal of rioters 11658
- Proclaiming county in insurrection11667, 11667
- Punishment 11286
- Remaining after order to disperse 11290
- Sheriff, power in overcoming resistance 11655
- Sheriff to have charge of national guard, when 11663
- Suppression 11635
- When governor may call out militia 11660

RIVERS

- See also Waters
- Obstruction, when navigable 11489

ROADS—See Highways

ROBBERY

- Definition of term 10973
- Element of fear..... 10974
- Moving pictures of train robberies prohibited 11567
- Penalty 10975
- Railroads, etc., standing rewards 12416
- Taking property from one county to another, jurisdiction 11712
- Verdict, value of property 12026

ROOMING-HOUSES

- Penalty for defrauding 11579

ROOMS

- In county jails 12469
- To be provided for jury's use.... 12009

ROUT

- Defined 11287
- Jurisdiction of justices' courts .. 11630
- Magistrate neglecting to disperse 11291
- Punishment 11289
- Remaining after order to disperse. 11290

RULING OF PLEADING

- See Pleading11841-11874

SABOTAGE

- Defined 10741
- Punishment 10742

SAFETY PROVISIONS

- Mine regulations—See Mines and Mining 11267-11280

SALE

- Fakers defined, and punishment.. 11425
- Fraudulent 11432
- Of
 - animals at public auction to be recorded 11541
 - animals with false pedigree... 11418
 - land, married woman, false pretense by 11413
 - land twice 11412
 - mines, under false pretenses... 11419
 - mortgaged property, to defraud 11416
 - packages falsely stamped as to weight 11430
 - property received for transportation, penalty 11463

SALOONS

- See Intoxicating Liquors ..11048-11133

SAMPLES

- Assaying, cheats 11420
- Making false samples of ore.... 11421

SANITY—See Insanity

SAVINGS BANKS

- Officers prohibited from overdrawing account 11442

INDEX TO PENAL CODE.

SAWLOGS—See Logs

SCAB

See Livestock11533-11540

SCHOOL TRUSTEES

Bribery of, forbidden 10862

SCHOOLS, PUBLIC

Buildings, unsafe exits 11266

Disturbing school or school meeting 10766

Fines

driving cattle over another's land 11227

driving cattle through state without brand, payable to. 11548

trespass on state lands.11336, 11507

violation of election laws... 10771

Injury to houses 11506

Offers of bribes to school officers and teachers 10862

Teachers, abuse of 11527

SCRIP

Purchase by public officers forbidden 10827

SEAL

Forgery and counterfeiting..... 11357

How made 10713

Of labor unions, unlawful use ... 11209

On writ of habeas corpus, etc.... 12378

Term includes what 10713

SEARCH AND SEIZURE—See Intoxicating Liquors

SEARCH-WARRANT

Affidavit of probable cause 12396

By whom served 12401

Complainant, party prosecuting.. 12429

Deadly weapons, search of defendant for, when 12414

Defendant

party against whom prosecuted 12429

to be searched before magistrate 12414

Definition of term 12394

Depositions, contents of 12398

Examination by magistrate, depositions, what to contain 12398

Examination of complainant on oath 12397

Execution of warrant, when 12405

Form, in intoxicating liquor prosecutions 11071

Form of 12400

Grounds for issuance 12395

How issued and executed in search for intoxicating liquors 11104

Inventory of property

copy of, to whom delivered.... 12410

when made 12409

Issuance upon probable cause.... 12396

Magistrate

examine complainant 12397

make return to district court. 12413

take depositions of complainant and witnesses 12397

SEARCH-WARRANT (Continued)

Malicious procuring 10948

Officers may break open doors, etc., when12402, 12403

Proceedings when grounds of warrant controverted 12411

Property taken, if perishable, to be sold 12408

inventory 12409

inventory, copy to whom..... 12410

livestock, to be sold 12408

stolen property, how disposed of 12407

when to be returned 12412

Receipt for property taken 12406

Return of deposition and warrants, where 12413

Return of warrant and inventory of property, when 12409

Search of defendant in presence of magistrate, when 12414

Service, breaking open doors or windows while executing... 12402, 12403

day and night-time 12404

Testimony

how authenticated 12411

to be taken, when 12411

Time in which to be executed... 12405

Violation intoxicating liquor laws, form and execution of..... 11072

Void, after what time 12405

Warrant

by whom served 12401

form of 12400

must be executed, when 12405

to issue, when 12399

Who may issue 12394

SECOND OFFENSE

How punished after conviction of attempt to commit state prison offense 11594

How punished after conviction of former offense 11593

SECOND PROSECUTION

Judgment bar to, when11612, 12002

SECOND TERM

Commencement of sentence 11596

SECOND-HAND DEALERS

See Pawnbrokers 11184-11187

SECRET

Extortion by threats to expose.. 11390

Grand jury to be kept 11830

SECRETARY OF STATE

Bond of state prison warden to be filed with 12460

Decision of board of pardons to be filed with 12255

Duty to furnish copies of corrupt practices act 10778

Fee for recording permit for use of nonbeverage alcohol 11090

Intoxicating liquors, duties concerning—See Intoxicating Liquors 11048-11133

INDEX TO PENAL CODE.

SECRETARY OF STATE (Continued)	
Member of board of state prison commissioners ..	12434, 12436
Record of trademarks, etc.	11206

SECURITY	
For appearance of witnesses, when and how given	11792
For infants and married women as witnesses, when and how given	11793

SECURITY TO KEEP THE PEACE	
Appeal by complainant, when...	11651
Complaint, before whom laid...	11637
Costs taxed against complainant, when	11650
Discharge of person committed, when	11644
Discharge of person complained of, when	11641
Evidence of breach of undertaking	11649
Examination of complainant and witnesses	11638
For assault committed in court.	11646
How required	11652
Proceedings when charge controverted	11640
Security	
effect of giving or refusal....	11643
when and how required	11642
Testimony to be taken in writing	11640
Undertaking	
evidence of breach	11649
when and how prosecuted	11648
when broken	11647
where filed	11645
Warrant of arrest, when and how issued	11639

SEDITION	
Defined	10737
Emergency law	10739
Punishment	10738

SEDUCTION	
Evidence on trial for	11984
Penalty for	11007
Penalty, marriage bar to action..	11007

SELF-DEFENSE	
Homicide, when excusable..	10963, 10967
Lawful resistance	11632, 11633

SENATE	
Impeachments, trial by—See Impeachment	11668-11686

SENDING	
Letters, when complete	11587

SENTENCE	
See also Execution of Judgment.	12087-12104
See also Juvenile Delinquents... ..	12294-12296
See also Judgment	
See also Punishment	

SENTENCE (Continued)	
Aggravation or mitigation, hearing	12067, 12068
Bench-warrant to issue, when...	12060
Circumstances in mitigation, etc., of	12067
Commutation of—See Commutations	
Court	
may suspend, when	12078
to determine degree, when	12056
to pass sentence, when.....	10718
Death, sentence—See Execution of Judgment	12093-12104
Defendant	
absent, bench-warrant	12060
in custody, how produced	12058
on bail, how produced	12059
Duty of court prior to	12064
Fine	
a lien on real property.....	12073
added to imprisonment	11599
and costs, discharge from imprisonment, when	12072
duration of imprisonment...	12069
pauper's oath	12071
Forfeiture of bail when defendant absent	12059
Hard labor, sentence to	12092
Imprisonment	
hard labor.....	12092
suspension of civil rights	11600
Indeterminate sentence	
effect of act	12077
parole, who entitled to	12076
when and how imposed	12075
Life imprisonment	11598
Presence of defendant, when necessary	12057
Pronouncing, no cause shown...	12066
Punishment, how determined	10719
Suspended sentence	
arrest of probationer	12084
blank forms, how furnished...	12081
certificate of judgment and order for suspension	12082
court may suspend, when	12078
effect of	12080
expenses, how paid	12086
final discharge	12085
persons not entitled to probation	12079
probation, how terminated	12084
arrest of prisoner	12084
rules and regulations, by whom fixed	12083
state board of prison commissioners to control	12081-12085
when and how granted	12078
Time for pronouncing	12055
When to be deferred	12065
Who to pass	10718

SEPARATE TRIALS	
When ordered	11973

SEPARATION	
Of jurors during trial, how regulated	11998

INDEX TO PENAL CODE.

SEPARATION (Continued)

Witnesses on preliminary examination 11781

SEPULTURE

Arresting or attaching bodies forbidden 11037
 Bodies, who charged with duty of burial 11034
 Bodies, who entitled to custody of 11036
 Defacing tombs or monuments.. 11038
 Mutilation or removal of dead bodies 11032
 Punishment for omitting to bury bodies 11035
 Removal of bodies from graves for dissection 11033

SERVANT—See Master and Servant

SERVICE

See Motions, Notice, Subpoenas, Writs
 Copy of order to take deposition of witness 12191, 12192
 Of
 articles of impeachment 11673
 coroner's warrant 12393
 search-warrant 12401
 summons on corporations—See Corporations 12230–12239
 On prisoners in jail, how 12480

SETTING

Cases for trial, when 11940

SETTING ASIDE INFORMATION

See Indictment and Information 11891–11895

SETTLEMENT

Bill of exceptions in criminal cases 12044

SETTLEMENT OF INSTRUCTIONS

How made in criminal cases..... 11969

SHADE-TREES

Injury to, in cities..... 11497

SHEEP

Abandonment by herder 11550
 Branding while driven through state 11542–11545
 Branding while running at large. 11553
 Control of scab and other diseases—See Livestock..11533–11540
 Diseased, care of 11556
 Driving from customary range... 11549
 Scabby
 disobeying orders of state veterinarianian 11535
 moving of 11537
 shipment into state 11534
 transporting or receiving..... 11536

SHERIFFS

Access to hotels, etc., for inspection 11247
 Accounts, presenting false 11334

SHERIFFS (Continued)

Compensation for delivering state prisoners 12464
 Compensation for maintenance of prisoners 12482
 County jails, duties concerning—See Jails 12466–12487
 Duties
 branding of livestock while driven through state..... 11547
 command rioters to disperse.. 11658
 concerning county prisoners—See Jails.....12466–12487
 concerning enforcement prohibition law—See Intoxicating Liquors
 conduct jury viewing premises 11996
 gambling 11169
 must receive persons committed 12482
 need not receive prisoners on civil process 12483
 presence at execution of death sentence 12103
 provide room, etc., for jury upon retirement 12009, 12010
 report to commissioners, on jail 12487
 to keep county jails 12468
 to keep prisoners, when and how long 12472
 to receive prisoners from another county, when 12475
 to serve coroner's warrant 12391
 Execution
 of
 imprisonment 12090
 judgment of death 12101
 justices' courts 12326
 Expenses of transporting insane prisoners 12218
 Failure to report to commissioners, on jail, effect 12487
 False representation of accounts. 11334
 Importation of nonresident deputies forbidden.....10925, 10927
 Liability on receipt of papers for prisoners 12480
 May
 command militia, when 11663
 employ guard of jail 12481
 kill disabled animals, when... 11509
 Obtaining confession of crime by third degree methods..... 10923
 penalty for violation of act... 10924
 Peace officers 11620
 Penalty
 for failure to pay over fines... 11321
 for failure to receive person arrested 10916
 Posse comitatus, powers of 11655
 Powers
 breaking into building where games played 11168
 in conveying convict to prison. 12091
 Prisoners, duties concerning—See Jails 12466–12487
 Procedure to suppress riots and disturbances—See Riots.11655–11667

INDEX TO PENAL CODE.

SHERIFFS (Continued)

Receipt of service of process on prisoner	12480
Refusal to pay over fines, etc....	11321
Refusing to aid in arrests	10930
Removal of prisoner for purpose of testifying	12186
Return upon death-warrant.....	12104
Security for keeping of prisoners, when	12483
Taking prisoners before court of another county	12432
Third degree methods, use prohibited	10923, 10924
Transportation of prisoners, how compensated	12464
United States prisoners, liability.	12472, 12473
Use of private deputies forbidden	10925
Warrant of arrest, execution....	11735-11737

SICKNESS

Of juror, procedure on.....	12000, 12013
-----------------------------	--------------

SIDEWALKS

Driving animals on	11504
--------------------------	-------

SIGNATURES

Includes mark	10713
Obtaining by means of threats..	11392

SINGULAR NUMBER

Includes plural	10713
-----------------------	-------

SLACK

Depositing in streams	11276
-----------------------------	-------

SLAUGHTER-HOUSES

Penalty for pollution streets and streams	11235
---	-------

SODOMY

See Crime Against Nature..	11030, 11031
----------------------------	--------------

SOIL

Malicious carrying away.....	11481
------------------------------	-------

SOLICITATION

Election contributions forbidden, when	10785, 10789
--	--------------

SOUND MIND

Who are persons of	10727
--------------------------	-------

SPECIAL PROCEEDINGS

Entitling affidavits, provisions applicable	12430
Parties to, how designated	12429
Subpoenas, issuance of.....	12431

SPEED AND TRAFFIC

Driving over bridges faster than a walk	11252
---	-------

SPIRITUOUS LIQUORS

See Intoxicating Liquors....	11048-11133
------------------------------	-------------

STANDING CROPS

Injuries to	11483
-------------------	-------

STATE

Bringing armed men into	11315
Criminal actions prosecuted in name of	11609
Includes what	10713
Lands, trespass on	11507
May appeal from what	12108
Property damages	11335
trespass on	11335
unenclosed	11336
Public moneys, wrongful acts ...	11318
State prison board cannot contract debts binding upon....	12463
Timber removal of	11336
unlawful cutting	11507
To pay costs of extradition.....	12427

STATE AUDITOR

Penalty for violation of duty....	11331
To draw warrants on prison fund	12463

STATE BOARDS, COMMISSIONS AND DEPARTMENTS

Board of Pardons—See Pardons.	12247-12266
State parole commissioners—See Parole Commissioner, State.	12516-12518
State prison commissioners—See State Prison	

STATE CHEMIST

Access to kitchens for inspection of food	11247
---	-------

STATE INDUSTRIAL SCHOOL

See Montana State Industrial School	12488-12515
---	-------------

STATE INSTITUTIONS

See Montana State Industrial School	12488-12515
Vocational school for girls.....	12519-12546

STATE LANDS

Lease to executive board of state vocational school for girls... ..	12526
Trespass upon, punishment.....	11507

STATE OF MONTANA

Prosecution in name of.....	11609
-----------------------------	-------

STATE PAROLE COMMISSIONER

See Parole Commissioner, State.	12516-12518
--------------------------------------	-------------

STATE PRISON

Accounts to be certified by warden	12444
Attempts to escape	10867
Attendance of prisoners at court, how procured	12432
Bond of warden	12460
Clerk of board, appointment and duties	12465
Commutation of sentence, when.	12455, 12456
Compensation of sheriffs for delivering prisoners	12464
Contract labor prohibited	12446

INDEX TO PENAL CODE.

STATE PRISON (Continued)

Convicts	
deposition, how taken	12198
employment of	12447
escape of, effect on warden and officers	12448
labor of	12446
prison jurisdiction extends over places of labor	12449
County jails may be used, when.	12459
Credit for good behavior, time granted	12456
forfeiture of, when	12457
Discharged convict furnished with suit of clothes and money...	12458
Employment of convicts, how regulated	12447
Escapes—See subtitle rescues and escapes	10866, 10867
Expenses of U. S. convicts, how defrayed	12452
Good behavior, credit for	12456
forfeiture of, when	12457
Hours of labor, prison guards... penalty for violation of act...	12441, 12442
Insane convicts, removal to asylum	12461
Inspection of books and papers.. delivery to successor	12451, 12451
Jurisdiction over places of labor.	12449
Labor of convicts, how regulated	12446
Moneys received for prison labor, disposal of	12450
Monthly estimates by warden...	12443
Prison commissioners, state board of	
advertising for furnishing supplies, how	12445
clerk, appointment of	12465
composition	12434
control of prison by	12435
duties	12465
officers of board	12436
powers concerning suspended sentences	12080-12085
powers of	12435
records to be kept by	12465
secretary, duties of	12437
Punishment of convicts, rules governing	12454
Reports of warden and board ...	12462
Rescues and escapes	
see Rescues and Escapes.	10866, 10867
see Punishment for Assisting in	10870, 10871
Residence of warden	12443
Road work, good behavior allowance	12456
Rules and regulations	12453
penalty for violation of	12454
Sealed proposals for supplies...	12445
State prison fund	12463
Unauthorized communication with convicts	10949
United States convicts, duty to receive	12452
Warden	
accounts to be certified by...	12444

STATE PRISON (Continued)

Warden (continued)	
appointment and salary	12438
bond of	12460
duties	12439, 12440
insane convicts, duties concerning	12461
monthly estimates prepared by	12443
penalty for violation of act...	12442
removal, how and when	12438
reports of	12462
residence	12443
Witnesses, removal of	12186

STATE REFORM SCHOOL

See Montana State Industrial School	12488-12515
---	-------------

STATE TREASURER

See Treasurer, State	
Approves bond of warden of state prison	12460
Moneys from prison labor, disposal of	12450

STATE'S EVIDENCE

Rules governing.....	11974-11976
----------------------	-------------

STATUTE OF LIMITATIONS—

See Limitations of Actions

STATUTES

Penal, how construed	10710, 10711
Pleadings, words used in.....	11851
Private, how pleaded	11856

STAY OF PROCEEDINGS

Certificate of probable cause ...	12113
Compromise by order of court...	12221, 12222
On appeal	
by defendant, capital cases....	12113
by state, none.....	12112
On motion for new trial	12050
Pending determination of sanity	12214
To take deposition out of state.	12204

STEALING RIDES

On cars or locomotives, forbidden	11568
Riding on truckrods or brake-beams, forbidden	11569
Trainmen constituted peace officers, when	11570

STEAM-BOILERS

See also Boilers	
Death from explosion, penalty ..	11229
False certificate of boiler inspector, penalty for	11198
Operating without license, penalty	11196
Penalty for mismanagement....	11195
Unsafe, use forbidden	11197

STENOGRAPHERS

Exceptions to challenge to jury.	11947-11949
Present at settlement of instructions	11969

STOCK

See Corporations	11436-11458
------------------------	-------------

INDEX TO PENAL CODE.

STOCKHOLDERS

- Of railroads consenting to incur-
ring of certain debts, misde-
meanor 11448
- Refusal of permission to inspect
books 11447

STOLEN PROPERTY

- Court may order delivery, when.. 12243
- Delivery to county treasurer, if
not claimed, when 12244
- Delivery to owner, conditions of. 12241
- Disposal by county treasurer,
how 12244
- Magistrate to deliver to owner,
when 12242
- Officer to give receipt for money
taken from arrested person.. 12245
- receipts, where filed 12245
- Owner to pay expenses 12242
- Peace officer receiving, must hold 12240
- Punishment for receiving 11388
- presumptive evidence, when .. 11388
- Receiving, is larceny 11381
- Record of stolen property, where
kept 12246
- Search-warrant 12395
- property, how disposed of 12407
- Unclaimed, delivery to county
treasurer, when 12244

STORAGE

- Duplicate receipts to be marked
"duplicate" 11462
- Erroneous receipts, good faith.. 11461
- Issuing fictitious receipts 11460
- Selling, etc., of property stored.. 11463

STREAMS

- Deposit of coal slack in....11276, 11277
- Obstructing navigation 11489

STREETS

- Injury to trees on 11497
- Malicious digging or carrying
away of soil 11481
- Placing carcasses in 11235

STRIKES

- Advertisement for labor, when in
progress11220, 11221
- False advertisement, damages ... 11222

SUBORNATION OF PERJURY

- Defined 10889
- Penalty for procuring execution
of innocent person by 10890

SUBPOENA

- Attendance of witness out of
county, how procured 12183
- Blank, on application of defend-
ant 12179
- By whom signed and issued 12179
- Coroner's inquest12383, 12384
- Defined 12179
- Disobedience to, how punished... 12184
- Expenses of witnesses from with-
out county, how defrayed... 12182

SUBPOENA (Continued)

- Forfeiture of undertaking on fail-
ure of witness to appear.... 12185
- Form of 12180
- In justice and police courts 12343
- Issuance in special proceedings.. 12431
- Magistrate must issue, from
whom 11778
- Number to be issued in criminal
actions (Political Code 4945)
- On hearing of habeas corpus.... 12359
- Service, how and by whom made. 12181
- To take deposition 12194
- Who may issue 12179

SUBSEQUENT PROSECUTION

- Judgment on demurrer, when bar
to 11902

SUCCESSOR

- Refusal of officer to surrender
books 10832

SUFFICIENCY

- Indictment or information, when 11852

SUICIDE

- Aiding or advising, a felony..... 11261

SUMMARY PROCEEDINGS

- For removal of public officers.... 11702

SUMMONS

- Service on corporations—See Cor-
porations .. 12231-12239
- Witnesses before legislature 10845

SUNDAY

- Conducting barber business on,
forbidden11040, 11041
- Disturbing religious meetings ... 11042
- Places of amusement prohibited. 11039

SUPERINTENDENTS

- Solicitation of money from em-
ployees, punishment 11404

SUPPRESSION

- Of riots—See Riots11655-11667

SUPREME COURT

- Appeals to—See Appeals to Su-
preme Court12105-12132
- Habeas corpus, issuance of 12350
- Justices magistrates 11619
- Justices may authorize arrest by
telegraph 11767
- Settlement of bills of exceptions. 12040

SURETIES

- Bail bond
justification12143-12150
- qualifications12142, 12150, 12153
- recommitment, qualifications .. 12174
- surrender of defendant ..12157, 12158
- Bond on appeal to district court,
judgment against, when..... 12337

SURRENDER

- Of bail—See Bail12157-12174

SURVEYORS' MONUMENTS

- Of United States, injury to.11490, 11491

INDEX TO PENAL CODE.

SUSPENDED SENTENCE

- See Sentence.....12078-12084
- Under juvenile delinquent law...
.....12294-12296

SUSPENSION

- Of death sentence, when...12094-12100
- Officers, effect of judgment 11683

SWEARING

- Disturbance of peace 11297

SWEET CIDER

- Excepted from prohibition act... 11050

SWINE

- Branding, when running at large 11553
- Diseased, running at large..... 11556

SYNDICALISM

- Criminal, defined 10740

TAXATION

- False statement as to 11324
- Obstructing collection 11322
- Poll, illegal blank receipts 11326
- Poll or road, improper receipt.... 11325
- Refusal
 - give names of employees..... 11327
 - list property 11323
 - permit inspection of books.... 11330

TEACHERS

- Abuse of, penalty 11527
- Use of force by, when lawful... 10980

TECHNICALITIES

- Supreme court to disregard on ap-
peal 12125

TELEGRAMS

- Altering, punishment 11495
- Arrests by, procedure....11767, 11768
- Bribing operators 11519
- Disclosing contents of, punish-
ment 11494
- Employee, using information
from 11517
- Forgery of messages 11359
- Neglect or postponement of deliv-
ery, punishment 11516
- Opening, when unauthorized, pun-
ishment 11496
- Secretly learning contents of... 11518

TELEGRAPH AND TELEPHONE LINES

- Malicious injury to 11466

TELEGRAPHERS

- Railroad, intoxication on duty... 11253

TENANT—See Landlord and Ten- ant

TERM—See Punishment

TESTIMONY

- See also Evidence
- See also Witness
- How and by whom kept on pre-
liminary examination 11784
- who may examine 11784

TESTIMONY (Continued)

- Magistrate to return testimony
to court, when 11796
- Of defendant in criminal actions,
rule governing 12177
- Of one codefendant not to be
used against another 12178
- Reduced to writing in homicide
cases 11783
- how signed and authenticated. 11783
- Term "testify" includes what... 10713
- What returned to court on pre-
liminary examination 11796

THEATERS

- Doors and exits, regulation of... 11266
- Moving pictures of crimes for-
bidden 11567

THIRD DEGREE

- Use of methods by sheriffs for-
bidden10923, 10924

THISTLES—See Weeds

THREATENED OFFENSES

- See Security to Keep Peace.11637-11652

THREATS

- See also Extortion11390-11393
- By letters, punishment for 11398
- Crime, acting under 10729
- Kidnaping under, consent no de-
fense 10972
- Obtaining signature by means of 11392
- Of employers, relative to elections 10770
- To publish libel 10998
- Unlawful, when referring to acts
of third persons 11400
- Verbal threats, punishment for.. 11399
- What constitutes extortion 11390
- Written, sending of 11398

TICKETS

- Counterfeiting 11366
- Larceny of 11378
- Unlawful issuance of 11525

TIMBER

- Defacing marks upon 11210
- Malicious trespass 11481
- Of state, removal of..... 11336
- Permitting logs to accumulate
along shore11574-11576
- Setting fire to11500, 11501
- Spiking sawlogs 11505
- Trespass on state lands, punish-
ment 11507

TIME

- Allowed defendant to prepare for
trial 11935
- For answer to be allowed defend-
ant 11890
- Of commission of offense, how
stated 11848

TIME OF COMMENCING ACTIONS

- See Limitations of Actions.11722-11727

INDEX TO PENAL CODE.

TITLES

- To affidavits, defective 11873
- special proceedings 12430

TOBACCO

- Sale to minors forbidden 11047

TOILET ARTICLES

- Excepted from prohibition act ... 11050

TOMBSTONES

- Penalty for defacing 11038

TOOLS

- Burglarious, prohibited 11353

TON

- Full weight to be given 11431

TOY PISTOLS

- See Pistols 11310-11313

TRADEMARKS

- Counterfeiting certain labels for-
bidden 11204
- Definition of terms 11201, 11202
- Forgery or counterfeiting 11199
- Penalties for unlawful use. 11208, 11209
- Penalty for unlawful use 11206
- Record of 11206
- Refilling vessels bearing, forbid-
den 11203
- Selling goods with counterfeit
marks 11200
- Suit to protect, injunctions 11207

TRAIN-DISPATCHER

- Intoxication forbidden 11253

TRAINMEN—See Railroads

TRAINS

- See Railroads
- Robberies, moving pictures not to
show 11567

TRANSCRIPT

- Of minutes, when used as record
on appeal 12045

TRANSFERS

- See Fraudulent Conveyances
..... 11432-11435

TRANSPORTATION

- Of intoxicating liquors—See In-
toxicating Liquors 11048-11133
- Sale of property received for, for-
bidden, when 11463

TREASON

- Definition 10735
- Evidence on trial for 11978
- Jurisdiction when committed out
of state 11714
- Misprision of
defined 10736
- punishment 10736
- Petit, abolished 10958
- Punishment 10735
- Who capable of 10735

TREASURER, STATE

- Registry of warrants of indus-
trial school 12515
- Violation of duty, punishment... 11331
- Wrongful acts as to public money 11318

TREATING

- Candidates forbidden 10791

TREES

- Injury in cities 11497
- Injury upon public lands, punish-
ment 11507

TRESPASS

- Hunting and building fires, when 11482
- Injury to fences 11482
- Livestock, when forbidden. 11225-11228
- Malicious injury to real property 11481
- On public property, acts consti-
tuting 11335
- exceptions 11336
- On state lands 11507
- When use of force not unlawful.. 10980

TRESPASSING STOCK

- Penalty for owner of 11226

TRIAL

- See also Change of Venue
- See also New Trial 12046-12050
- Abortion, seduction, etc., evi-
dence 11984
- Affidavit for postponement 11936
- After change of venue 11924
- All witnesses need not be called. 11981
- Amendment of information or in-
dictment 11870, 11871
- Argument, order of 11969
- Bigamy, evidence 11982
- Burden of proof shifts when, in
murder trials 11980
- By jury, how waived in justices'
courts 12313
- removal from office 11697
- Calendar of criminal actions 11933
- Cases to be set for, when 11940
- Challenge to jury
district court..... 11949, 11964-11967
- justices' courts 12317
- Codefendant, separate trials, when 11973
- Conspiracy, evidence 11979
- Conviction on testimony of ac-
complice, when had 11988
- Conviction or acquittal, when bar
to subsequent prosecution...
..... 11581, 12002
- Corporate existence, how proved. 11985
- Counsel may comment upon what 11969
- Court
may adjourn while jury absent 12016
for what purposes open 12016
- may advise acquittal, when... 11995
- may appoint prosecutor, when. 12007
- to charge jury, when 11969
- to decide questions of law..... 12001
- De novo, on appeal to district
court 12239

INDEX TO PENAL CODE.

TRIAL (Continued)

Defendant	
may be committed when appearing	12006
may be discharged to become witness	11974, 11975
presumed innocent	11971
Defendant's presence, when necessary	11931
Directed verdict, court may advise	11995
Discharge of defendant for lack of evidence	11975
effect of discharge	11976
Discharge of defendant, jurisdiction wanting	11991
defendant, lack of jurisdiction, procedure	11992, 11993
jury, jurisdiction	11990, 11991
one defendant to testify for codefendant, when	11975
one defendant to turn state's evidence	11974
Effect of failure to apply for postponement	11939
Errors in instructions to be excepted to	11969
Evidence, rules applicable	11977-11979
Exceptions not necessary, when	12041
False pretenses, evidence	11987
Forgery of bank bills, evidence	11983
Forms of verdict	12020
Homicide, state need not call all witnesses	11981
Illness of juror	
In justice and police courts—See Justice and Police Courts	12319-12347
Instructions	
settlement of	11969
to jury, how prepared and given	11969
when to be read	11969
Issue of fact	
arises when	11928
how tried	11928
Judges, information against, how tried	11930
Juror sworn as witness, when	11997
Juror to declare knowledge to court	11997
Jurors, separation during trial, how regulated	11998
Jury	
how admonished on adjournment	11999
how formed	11932
may decide in court or retire for deliberation	12005
trial, how waived	11929, 12313
Knowledge of juror to be declared in court	11997
Larceny of money, etc., proof of property taken	12008
Libel, jury to decide laws and facts	12003
Lotteries, evidence	11986
Mistake in indictment or information, procedure on	11989

TRIAL (Continued)

Murder, burden of proof, mitigating circumstances	11980
Murder cases, all witnesses need not be called	11981
New Trials—See New Trials	12046-12050
Notice and affidavit for postponement	11936
Oath of bailiff in charge of jury	11998
Of challenges, how had	11949
Of persons arrested for misdemeanor, how had	11770
On change of venue	11924
Order of	11969
may be changed	11970
Postponement	
affidavit of defendant	11936
effect of failure to apply in time	11939
for cause	11937
state may have, when	11938
Presence of defendant, when necessary	11931
Presumption of innocence	11971
Procedure on failure of county attorney to attend court	12007
Proceedings on discharge of jury when facts do not constitute offense	11994
Proof of corporate existence, etc.	11985
Public trial, right to	11611
Question of insanity, procedure	12215
Questions of law, court to decide	12001
Reasonable doubt, acquittal	11971
Reasonable doubt as to degree of offense, result of	11972
Rebutting testimony, when offered	11969
Regulation, how conducted	11969
Rules of evidence applicable	11977
Seduction, evidence required	11984
Separate trials, when ordered	11973
Separation of jury	11998
Sickness of juror, procedure on	12000
Speedy, right of defendant	11611
State may have postponement, when	11938
Time allowed defendant for preparation	11935
Treason, evidence	11978
View of premises by jury	11996
Witnesses, all need not be called	11981

TRIAL JURY—See Jury

TROOPS

See also Militia	
When ordered out to quell riots—See Riots	11660-11667

TRUE BILL

How found by grand jury	11833
Procedure when not found	11834

TRUSTEES

Conversion by is larceny	12382
--------------------------	-------

TRUSTS

See Restraint of Trade	10901-10915
------------------------	-------------

INDEX TO PENAL CODE.

UMPIRES

See Referees10853-10858

UNDERTAKING

Appeal by complainant for security to keep the peace 11651

Bail
form of 12149
of fugitive from other state... 12422
on holding to answer before information 12141
on recommitment 12173
qualifications of sureties 12142, 12150, 12153

Default entered, when 12161

Forfeiture, action on 12164

Liability on, action not barred by what 12163

Malicious prosecution in justice's court, for costs 12330

Of witness, forfeiture 12185

On abatement proceedings by county attorney 11131

On appeal to district court.12336-12338

To keep the peace
evidence of breach 11649
extension 11642
filing where 11645
when and how prosecuted 11648
when broken 11647
when required 11642

Witnesses to appear in district court, when11791, 11792

UNIFORM

Wearing without authority 11558

UNION LABEL

See Trademarks11204-11208

UNIONS—See Labor Organizations

UNITED STATES

Flag, acts constituting desecration11561-11563

Includes what 10713

Injury of surveyors' monuments. 11490

Prisoners, expense of 12452

Prisoners in jail, liability of sheriff 12473

to be kept 12472

Sedition defined 10737

Wearing uniform of, without authority 11558

UNLAWFUL ASSEMBLY

Defined10743, 11288

Magistrate neglecting to disperse 11291

Punishment10743, 11289

Remaining after order to disperse 11290

To teach sabotage, etc., punishment for10743, 10744

USURPATION

Of public office, penalty 10831

USURY

By pawnbrokers, penalty 11186

VACANCY

On impeachment, how filled 11684

Pending appeal from removal from office 11700

VAGRANCY

Annual report of institutions.... 12552

Commitment of females to reformatory institutions, when 12549

Compensation of institutions 12551

Defined 11521

Qualifications of institutions 12550

VAGRANTS

Defined 11521

VALUE

Jury to find in verdict, when.... 12026

VARIANCE

Acquittal, defendant not discharged 12034

Acquittal, on ground of, not good as plea 11912

Amendments11870, 11871

In order of trial, when allowed .. 11970

In pleadings, when immaterial... 11874

Not guilty, form of verdict 12020

VENEREAL DISEASES

Advertisements of cures prohibited11144, 11145

penalties11146, 11147

production of advertisement as evidence 11148

VENUE

See Change of Venue.....
.....11916, 11927, 12307

See Jurisdiction

Of actions for kidnaping 10971

VERDICT

Acquittal, discharge of defendant on account of insanity, procedure 12036

variance, defendant detained.. 12034

After amendment of information or indictment, effect..... 11872

Assessment of punishment, court may reduce 12031

error, duty of court.... 12029, 12030

Attempts, jury may convict of.. 12024

By lot, new trial 12048

Calling names of jurors 12017

Codefendants, finding of jury.... 12025

Contrary to law or evidence, new trial 12048

Conviction
defendant remanded..... 12035

exoneration of bail..... 12035

had only upon 11614

Court may reduce, when..... 12031

Court to declare punishment, when 12028

Defendant must appear in person to receive, when 12018

Defendant to be discharged, when 12034

Degree of crime, jury must find.. 12022

Directed in criminal cases, when. 11995

INDEX TO PENAL CODE.

VERDICT (Continued)

Effect after amendment at trial..	11872
Failure to find value, effect	12026
Felony, presence of defendant...	12018
Finding of lesser offense or attempt	12024
Forms of	12020-12023
General, jury may find	12020
In justice and police courts—See Justice and Police Courts...	12322-12325
Insanity, acquittal on ground of.	12036
Insufficiency, procedure	12021
Juror not dissenting, guilty of contempt, when	12033
Jury	
may convict of lesser offense..	12024
of attempt	12024
may declare punishment	12027
may find upon charge of previous conviction.....	12023
to find degree of crime	12022
Justices' courts	
codefendants	12323
entry into minutes	12322
how delivered	12322
to be general	12322
Lesser offense or attempt	12024
Manner of receiving	12019
May be rendered as to some of defendants	12025
Number of jurors necessary to return	11929
On	
charge of previous conviction..	12023
inquest, essentials	12385.
question of insanity, procedure	12216
Polling of jury	12032
contempt	12033
Procedure	
upon conviction	12035
when all jurors do not appear.	12017
when insufficient	12021
Proceedings on acquittal on grounds of insanity	12036
Reduction of, by court, when....	12031
Rendered as to some defendants, new trial as to others	12025
Return of jury on agreement....	12017
Value of property taken	12026

VESSEL

Defined	10713
Fictitious bills of lading, punishment for issuance	11459
Good faith in issuance, when defense	11461
Jurisdiction of offenses	11709
Setting adrift, punishment	11488
Unauthorized sale of property by, when	11463

VETERINARY SURGEON, STATE

Disobeying orders of, punishment	11535
Obstructing or failing to report to	11540

VIEW OF PREMISES

By jury, when	11996
---------------------	-------

VINEGAR

Excepted from prohibition act....	11050
-----------------------------------	-------

VOCATIONAL SCHOOL FOR

GIRLS

Admission of females into reformatory institutions, when.	12547
Age of person eligible to admission	12520
who may be committed	12521
Commitment	
expenses, how defrayed	12537
of females for certain offenses.	12549
of girls to, procedure	12535
parole, when granted	12539
term of	12539
to industrial school, when changed to other institutions	12548
warrant of judge	12537
Commutation of punishment to commitment to school, when.	12540
Construction of buildings, how regulated	12527
Curriculum	12533
Employment of principal	12525
Establishment and location	12519
Executive board	
annual report	12530
compensation of members	12528
composition and powers	12522
duty to procure land for site..	12524
employment of principal	12525
leases of state land to	12526
meetings	12528
oath and bond of members	12523
officers	12524
other duties	12524
permanent office	12528
powers	12534
term of office of ex officio and other members	12531
vacancies, how filled.....	12530
Fugitives, return of	12542
Health certificate, on commitment, form of	12536
Leases of state land to board....	12526
Order of commitment	12536
Paroles, when granted	12539
Penalty for connivance at escapes for furnishing tools for escapes	12543
Powers of judges concerning commitments	12538
review of proceedings	12538
Presiding officer, duties	12521
Principal	
duties	12529
employment of	12525
reports	12529
salary	12532
to report cost of care of girls..	12537
Punishment for aiding escapes ..	12543
Purposes	12520
Release and discharge, when	12541
Reward for apprehension of escape of persons	12545

INDEX TO PENAL CODE.

VOCATIONAL SCHOOL FOR GIRLS (Continued)

Salaries of principal and other officers	12532
Term of commitment	12539
Transfer of inmates from industrial school	12546
Warrant, contents of	12537
Who may be committed	12521

VOLSTEAD ACT

State law conforming to—See Intoxicating Liquors...	11048-11086
---	-------------

VOLUNTARY MANSLAUGHTER

Defined	10959
---------------	-------

VOTING

Fraudulent, penalty for ...	10749-10751
-----------------------------	-------------

VOUCHERS

Presentation of false, by officers.	10828
-------------------------------------	-------

WAGERS

See also Gambling	
See also Racing Bets	
Election wagers forbidden..	10767, 10794

WAGES

Discounting by employer, forbidden	11403
--	-------

WAIVER

Of	
defects in information	11892
jury in misdemeanors, entry ..	11929
jury trial in district courts...	11929
jury trial in justices' courts...	12313
objection to name of defendant in justices' courts	12309
preliminary examination, when, procedure on	11797
What objections to information not deemed waived	11906

WARDEN OF STATE PRISON

See State Prison	12438-12465
------------------------	-------------

WAREHOUSEMAN

Duplicate receipts to be marked.	11462
Fictitious receipts, punishment for issuance	11460
good faith in issuance, when defense	11461
Pooling by, forbidden	10912, 10913
Unauthorized sale of property by, when	11463

WAREHOUSES

Storing intoxicating liquors in, when permitted	11082
---	-------

WARRANT

See also Arrests	
Arrest	
by telegraph	11767, 11768
by whom executed	11735-11737
contents	11734
coroner's, how served	12393
defendant on bail, failure to appear	11878-11882

WARRANT (Continued)

Arrest (continued)	
delay in taking defendant before magistrate	11744
directed to whom	11736
duty of officer arresting	11747
duty of officer in conveying prisoner	11749
execution in any county..	11737, 11738
felony, defendant taken before what magistrate	11739
finding of indictment	11839
force to be used	11760
form of	11733
coroner's	12392
in justices' and police courts	12303
fugitives from other states....	12419
in other county, magistrate who issued warrant to act, when.	11743
indorsement of bail on	12146
instead of writ of habeas corpus	12372-12379
misdemeanor	
admission to bail	11748
in other county, bail ..	11740-11742
when at night-time	11757
name of defendant to be specified	11734
on indictment, indorsement of bail	11840
peace officer may make without, when	11305, 11753
peace officer must execute	11735
powers of officers	11750
procedure where defendant taken before other magistrate	11745
procedure where defendant triable in other county	11746
showing of warrant	11759
to whom directed	11735
when coroner to issue	12388, 12390, 12391
with, duty of officer	11765
without, duty of officer	11766
without, procedure.....	11731
Bench-warrant — See Bench-warrant	12060-12062
Commitment, failure to give security to keep peace, contents	11642
Defect in form, not cause for release on habeas corpus	12363
Defective when complainant not entitled to release on habeas corpus	12364
For fugitives from justice	12419
Form of, when issued from justices' or police courts	12303
Form of, when issued on arraignment of defendant	11880
directions contained in	11881
how served	11882
Issuance instead of habeas corpus, when	12372
Magistrate to issue, when	11730
Malicious procuring of	10948
Officer must exhibit	11759

INDEX TO PENAL CODE.

WARRANT (Continued)

- Search-warrant — See Search-war-rants 12394-12414
- To issue on indictment, when.... 11839

WARRANT OF ARREST—See War-rant, immediately preceding

WATER

- Defiling of 11235
- Depositing slack in11276, 11277
- False devices for measure of.... 11387
- Injuring pipes 11499
- Larceny of 11386
- Overflowing ditches or flumes.... 11531
- Poisoning 11194
- Taking from or obstructing canals 11467

WAYS

- Private, injury to 11464

WEAPONS

- Concealed
 - carrying within cities and towns 11302
 - carrying without cities and towns forbidden 11303
 - defined 11307
 - district judge may issue permits, procedure 11306
 - exceptions from act 11304
 - jurisdiction of courts 11309
 - person may be arrested without warrant 11305
 - unincorporated towns defined.. 11308
- Deadly
 - carrying with intent to assault 11354
 - Exhibiting, forbidden, when 11299
 - Taking from person arrested.... 11763

WEARING DISGUISE

- Prohibited 11751

WEIGHTS AND MEASURES

- False
 - defined 11428
 - for measuring gas, electricity, etc. 11387
 - Full weight by ton or pound 11431
 - Increasing weight of articles sold in packages 11240
 - Stamping false, punishment 11430
 - Using false, punishment 11429

WELLS

- Poisoning 11194

WHISKY—See Intoxicating Liquors

WHITE SLAVERY

- See Prostitution11008-11016

WIFE

- See also Husband and Wife
- Abandonment and failure to sup-port—See Wife and Children11020-11022
- Not competent as witness in crimi-nal case, when 12176
- Right of action for injuries from sale of intoxicating liquor... 11065

WIFE AND CHILDREN

- Abandonment and nonsupport
 - certain proof prima facie evi-dence, when 11019
 - court may enter what orders... 11018
 - undertaking for support 11018
- Cruelty to children 11022
- Desertion or abandonment of children, penalty for 11020
- court may suspend sentence, how and when 11020
- Disposition of child for mendi-cant occupations 11021
- Duty of husband to support, pen-alty 11017
- Nonsupport, penalty for 11017

WILFULLY

- Defined 10713

WILL

- Defined 10713
- Forgery 11355

WINDOWS

- Persons
 - making arrest may break.11761, 11762
 - serving search-warrant may break12402, 12403

WINE

- See Intoxicating Liquors...11048-11133
- Use for sacramental purposes permitted 11049

WIRE FENCES

- Regulation of 11557

WITNESSES

- See also Perjury
- All need not be called in murder cases 11981
- Attendance
 - outside of county 12183
- Bail, forfeiture, when 12185
- Bribery of10896, 10897
- Bribery, offender as witness 10863
- Change of venue, effect of order. 11925
- Codefendants as 12178
- Committed on refusal to give security, when 11794
- Competency
 - in actions for bribery..... 10863
 - of husband and wife as 12176
 - rules of civil practice applica-ble 12175
- Contempt, disobedience to sub-poena 12184
- Convicts, competent 11603
- Coroner's inquest12383, 12384
- Corrupt lobbying, not excused from testifying 10846
- Deceiving of 10892
- Defendant
 - against himself 11613
 - credibility of, as 12177
 - may be discharged to become..11974, 11975
 - not compelled to testify 12177
 - not competent as, when..... 12177

INDEX TO PENAL CODE.

WITNESSES (Continued)

Defendant (continued)	
witnesses for, when produced	
and sworn	11780
Depositions in state	12187-12198
application	
on affidavit	12189
to take	12188
authentication of testimony...	12195
before whom taken	12191
court to appoint attorney for	
defendant, when	12193
magistrate to take, when.....	12192
notice of application	12190
oath, by whom administered..	12198
order for taking	12191
persons imprisoned	12198
right of defendant	12193
sealing and filing	12196
service of order	12191
subpoenas	12194
testimony reduced to writing..	12195
use as evidence	12197
when permissible	12188
witness in jail, how produced..	12198
Depositions out of state....	12199, 12212
application	
on affidavit	12202
to whom	12203
commission	
and return open to inspection	12211
defined	12201
how executed	12207
receiving and opening.....	12208, 12209
duty of commissioner.....	12207
interrogatories	
amendments	12205
how settled and allowed...	12205
notice of application	12203
order granted, stay of trial..	12204
return of commission	
by mail	12206, 12207
delivery to agent.....	12208, 12209
directions	12206
use as evidence	12212
when	
and how filed	12210
applications made	12200
Discharge of defendant to become,	
when	11974, 11975
Disobedience to subpoena, liable	
damages	12184
Examination of	
conditionally, when and by	
whom	12187
for defendant	11780
on commission—See subtitle	
depositions out of state.....	12199-12337
Examined in presence of defend-	
ant	11779
Exclusion of, by magistrate	11781
Expenses from without county,	
how defrayed	12182
Experts, forgery of bank bills...	11983
Extortion by employers or fore-	
men, immunity	11405
Failure to attend before legisla-	
tive assembly	10845

WITNESSES (Continued)

False testimony before legislature,	
perjury	10881, 10882
Forfeiture of undertaking on	
failure of witness to appear.	12185
Homicide, state need not call all.	11981
Husband and wife, when incom-	
petent as	12176
Immunity	
in actions for extortion.....	11405
in gambling prosecutions	11178
on charge of perjury	10720
Imprisoned	
how produced in another county	12432
removal	12186
separate room	12469
Indorsement on	
indictment	11836
information	11805
Juror	
as, on personal knowledge.....	11997
may be, on challenge	11965
Justices' courts, continuance, ver-	
bal notice sufficient, when..	12315
No person compelled to be witness	
against himself	11613
Offering false evidence	10891
On	
examination before magistrate.	
.....	11778-11781
procedure to remove from office	11698
Outside of county, expenses....	12182
Penalty for deceiving	10892
Perjury	
before legislature	10881, 10882
what admissible	10720
Poor persons, expenses, how paid.	12182
Preparation of false evidence...	10893
Preventing attendance of	10895
Prisoners, how produced as	12186
Privileges	
in actions	
against foremen for receiving	
gifts	11405
for violation of prohibition	
law	11076
in bribery actions	10863
on trial for fighting duel	10987
Receiving bribes	10897
Refusal to	
answer, criminal contempt	10944
attend and testify before legis-	
lature	10845
be sworn, criminal contempt...	10944
give security to magistrate...	11794
Right of defendant	
to compel attendance of	11611
to meet	11611
Security for appearance	
conditional examination, when	
not given	11795
of infants and married women.	11793
when and how given	11792
Subpoenas	
blank, when issued	12179
by whom signed and issued...	12179
defined	12179
disobedience to, how punished.	12184

INDEX TO PENAL CODE.

WITNESSES (Continued)

Subpoenas (continued)	
for, by magistrate	11732
form of	12180
served, how and by whom	12181
Temporary removal of imprisoned witness, when	12186
Testimony	
before grand jury, when disclosed	11830
may be read against, when....	10720
of codefendants, how used	12178
reduced to writing, when.....	11783
how signed and authenticated	11783
Unable to give security, may be examined, when and how....	11795
Undertaking to appear in district court	11791, 11792
Who competent	12175-12178
in bribery actions	10863

WOMEN

See also Vocational School for Girls	12519-12536
Abduction of, punishment for...	11004
Accepting money from earnings of prostitute	11015
Admission to reformatory institutions	12547
Annual report of reformatory institutions	12552
Commitment to reformatory institutions for certain offenses, when	12549
Compensation of reformatory institutions	12551
Disturbance in presence of	11297
Enticing to places of prostitution	11143
Keeping	
disorderly houses	11140, 11141
for immoral purposes forbidden	11008
or residing in house of ill-fame	11140
Living with common prostitute..	11016
Paying money for procuring for immoral purposes	11012
Procedure on execution of judgment in case of pregnancy.	12099-12101
Procuring	
for concubinage or other immoral purpose	11010
to reside in house of prostitution	11009
Qualifications of reformatory institutions	12550
Receiving money for	
immoral acts of.....	11013
procuring for immoral purposes	11013

WOMEN (Continued)

Submitting to attempts to produce abortion	11024
Transportation for immoral purposes a felony	11008
Unlawful restraint of, in immoral places	11014
Vagrancy	11521

WOODPILES

Burning or injuring, punishment.	11488
----------------------------------	-------

WORDS AND PHRASES

Construction in information	11850
statutory, need not be used....	11851
Corrupt practice act, terms used in, defined	10775
Defined, as used in Penal Code..	10713

WORKMEN—See Labor

WRECKING TRAINS

Penalty for	11468-11470
-------------------	-------------

WRESTLING-MATCHES

Engaging in, forbidden	11296
exception	11296

WRIT

Defined	10713
---------------	-------

WRIT OF ERROR

To review proceedings as to incorrigible children	12505
---	-------

WRIT OF HABEAS CORPUS

See Habeas Corpus	12348-12380
-------------------------	-------------

WRITING

Blackmail by	11397
Destroying written instrument..	11492
False statement in, to obtain credit	11408
Includes printing	10713
Testimony of witnesses in homicide cases	11783

WRITTEN INSTRUMENTS

Compulsion to execute, extortion.	11393
False personation	11407
Larceny	11377-11379
Mutilation or destruction of....	11492
Obtaining signature to, by means of threats	11392

YEAR

Defined	10713
Murder, deceased must die, when.	10961

GENERAL INDEX

PLAN OF INDEX

This index is arranged alphabetically throughout. Whenever there is more than one word in a main title, the chief descriptive word is placed first. For example: "AUDITOR, COUNTY," instead of "County Auditor;" "EDUCATION, STATE BOARD OF," instead of "State Board of Education" or "Board of Education."

All main titles, as, for example, "ABSTRACTERS OF TITLE," are printed in capitals. All subtitles, as, for example, "Bond and approval," under the above, commence with a capital letter, and are indented under the main title. All further classifications under subtitles, as, for example, "renewal and additional bond," under the above, begin with a small letter, and are further indented under the subtitle.

In using the index to a lengthy subject, such as "CITIES AND TOWNS," to find the proper relation of any word beginning with a small letter, follow up the index to the first word encountered beginning with a capital.

Wherever feasible, cross-references give the consecutive section numbers where the subject referred to is treated, as well as the title under which they are found. Often sections will be found not running consecutively, and to locate these search should be made under the title referred to.

Under the headings "STATE BOARDS, COMMISSIONS AND DEPARTMENTS," "STATE INSTITUTIONS," and "STATE OFFICERS" will be found a complete list of all state boards, institutions, and officers.

GENERAL INDEX

ABANDONMENT

Action, nonsuit on.....	9317
Casing oil and gas wells.....	3548
Children, right to wages on.....	5848
Coal mines, final survey of work- ings	3485
Highways, how	1614
Homesteads, how abandoned.....	6951, 6952
Husband not liable to support wife, when.....	5801
Mining claims, relocation of.....	7370, 7371
Oil and gas wells, plugging re- quired	3548, 3553, 3554
Parent by child, not liable for support	5845
Partners, authority on.....	7998
School districts, when.....	970
Sheep by herder.....	11550
Townsites, vacation of plats.....	5308
Water rights, effect on.....	7094
Wife and children—See Wife and Children	11017-11022

ABATEMENT

See also Nuisances	
Actions not to abate, when.....	9086
Between classes in a will.....	7056
Buildings where certain unlawful acts carried on.....	11124
By nonjoinder in forcible entry..	9892
Nuisances—See Nuisances.....	8642-8656
Of	
nuisance maintained in viola- tion of prohibition law—See Intoxicating Liquors.....	11066, 11123-11133
nuisances, actions for.....	9474

ABBREVIATIONS

Taxation, use in.....	2061
Use in courts permissible.....	8881
Used in writing history in codes —See preface to Political Code	

ABDUCTION

See also Kidnaping.....	10970-10972
Evidence on trial for.....	11984
Jurisdiction of actions.....	11710
Of women, penalty.....	11004
Violation of personal relations by, forbidden	5693

ABILITY

Essential to offer of performance.	7441
------------------------------------	------

ABORTION

Evidence on trial for.....	11984
Penalty for procuring.....	11023
Punishment	11023
Submitting to attempt to procure	11024

ABROGATION

Statutes by code, effect of.....	17
----------------------------------	----

ABSENCE

Becomes desertion, when.....	5742
County officers from state, when permitted	4739
Defendant from state, effect on time for commencing actions.	11725
From state, effect on statute of limitations	9048
Jury, court may adjourn.....	12016
Of	
evidence, continuance	9332
executor from state.....	10061
judge, adjournment on.....	8852, 8853
party at trial, waives jury.....	9365
witness, deposition taken.....	10644, 10645
Officers	
consent of legislature to.....	414
from state forbidden.....	414
vacancy caused by.....	511
Spouse for five years, effect on subsequent marriage.....	5705
Trial in absence of party.....	9331

ABSENT VOTERS' LAW

See Elections.....	715-756
--------------------	---------

ABSTRACT

Of justice court judgments, form of	9689
docketing and filing....	9690
issuance of execution on.....	9691
lien of judgment.....	9692
Of title in partition suit, how made and verified.....	9574
costs allowable, when.....	9573

ABSTRACT OF TITLE

Townsites, plats, examination and filing	4986
---	------

ABTRACTERS OF LIFE INSURANCE POLICIES

Application, form of.....	171
Attorneys and accountants ex- cepted	170
application to be filed with com- missioner of insurance.....	171
Commissioner of insurance may make inquiry.....	171
Hearing on refusal to grant license	172
License	
by whom issued.....	170
fee for.....	170
Penalty for violation of act....	173
Review by court.....	172
Unlawful to audit policies with- out license.....	170

ABSTRACTERS OF TITLE

Bond and approval.....	4139
renewal and additional bond...	4143

GENERAL INDEX.

ABSTRACTERS OF TITLE (Continued)

Certificate	4140
fee for	4140
Certified abstract as evidence	4142
Compensation	4141
Complaint against, hearing and costs	4144
Seal	4145
Violation of act, penalty	4146

ABUSE

Guardian, removal for, when	5885
Parental authority, remedy for	5840
School teachers, of	11527
School teachers, punishment for	1082

ACCEPTANCE

See also Contracts	7492- 7497
See also Negotiable Instruments Law	8402, 8539- 8549
Accord and satisfaction	7456- 7458
Communication of	7490, 7491
Guaranty, when binding	8176
Part performance of obligation, effect of	7459
Principal, waiver of interest, when Rent, presumption as to renewal of lease	8665 7745

ACCESSION

Alluvion	6820
To personal property	
duty on admixture of materials	6831
duty when materials are inseparable	6830
on union of materials and workmanship	6829
on union of several things, duty of principal owner	6826
owner may elect between thing or value	6833
principal part, what deemed	6827, 6828
wilful trespassers not included	6832
wrongdoer liable in damages	6834
To real property	
islands, title to	6822- 6824
sudden removal of bank, effect of	6821

ACCESSORIES

Certain distinction between accessories and principal abolished	11863
Defined	10733
Indictment against, where found	11864
Jurisdiction of actions against	11717
May be punished, though principal not	11865
On motor vehicles	1753
Punishment	10734

ACCIDENT

See also Mistake	
Acts committed by, criminal, when Error in writing resulting from, disregarded	10729 7531
Ground for new trial, when	9397
Homicide by, when excusable	10963
In written contract, intent to control	7531

ACCIDENT (Continued)

Involuntary trust results from, when	7887
Vacation of default for	9187

ACCIDENT INSURANCE

Indemnity, measure of	8162
Insurable interest	8159
Notice of transfer or bequest not necessary	8161
Right to assign policy	8160

ACCIDENT INSURANCE COMPANIES

See Insurance Corporations	6128- 6136
--------------------------------------	------------

ACCIDENTS

See also Workmen's Compensation Act	2816- 3033
Coal mines, duty of inspector	3539
Liability of railroads for personal injuries	6605
Mines	
investigation of	3423
report of	3424
Public utilities, investigation and report	3907
Railroad employees may call physician, when	6602
Railroad, investigation	3798, 3799
Vocational rehabilitation — See Vocational Rehabilitation 3044- 3051	

ACCOMMODATION PARTIES

Liability of	8436
------------------------	------

ACCOMPLICE

Conviction when had on testimony of	11988
Corroboration of, necessary	11988
Evidence, how viewed	10672

ACCORD

Defined	7456- 7458
effect of	7457

ACCOUNT

See also Bill of Particulars	
By specific persons	
executors and administrators	10288-10306
persons entrusted with estate	10143
special administrators	10113
surviving partners	10261
Cause of action accrues on, when	9042
Copy to be filed in justice court, when	9649
Executors must render	10316
How pleaded	9167
delivery copy to adverse party	9167
How proved	10516
Inspection of, court may order	9771
Reference of, when ordered	9375
Statute of limitations on	9030

ACCOUNTANCY, BOARD OF EXAMINERS IN

See Public Accountants	3241- 3251
----------------------------------	------------

ACCOUNTANT, STATE

Appointment and term	305
Duties	306

GENERAL INDEX.

ACCOUNTANT, STATE (Continued)

Examinations by, officers to facilitate	307
Methods of accounting, compliance with	308
Oath and bond	309
Powers and duties	306
Salary	309

ACCOUNTANTS

See Public Accountants 3241- 3251

ACCOUNTING

For rents and profits on execution sales	9448
Partners, duty to account	7991
general partners to account for profits, when	8003
Trustees on breach of trust	7897

ACCOUNTS

See also Accountant, State	
See also Examiners, State Board of City, how presented	5078
County, how presented—See Counties	4604, 4613
Falsification of public	10828
Officers, executive, must keep and report	522
State accounts, audit of—See Examiners, State Board of State, how presented, when appropriation made	238
State officers, itemized	456

ACCUMULATIONS

Income, disposition of, how governed	6709
Income for benefit of another, how directed	6711
for longer period than minority, void	6712
Minors, application of income to support of, how	6713
Surplus rents liable to creditors, when	6788
Void, when	6710
Wife not liable for debts of husband	5795
what constitutes separate property	5796

ACCUSATIONS

Against public officers, where found and filed	11800
Proceedings for removal of public officers, when by	11687-11701
by summary proceedings, when	11702

ACCUSED

See also Defendant	
Rights and privileges of	11611-11614

ACID

Assaults with	10979
-------------------------	-------

ACKNOWLEDGMENTS

See also Recording Conveyances	
Articles of incorporation	5907

ACKNOWLEDGMENTS (Continued)

By married women, how taken	6911
deeds, how acknowledged	6861
effect of	6912
form of certificate	6916
power of attorney	6862
By whom taken in state	6905, 6906
By whom taken without state	6907
By whom taken without the United States	6908
Certificate of authority of justices in certain cases	6919
Certificate of justice of peace, contents of	8876
Certificate of proof, contents of	6925
Constructive notice of contents	6934
Corporation, form of acknowledgment by	6915
Defective instruments, effect of record	6932
Deputies may take, when	6909
Early conveyance, how governed, when valid without acknowledgment	6930
Form of	
by corporation	6915
certificate by attorney in fact	6917
certificate by married woman	6916
general certificate	6914
Handwriting, how proved	6923
evidence to show what	6924
Improper certificates, how corrected	6927
Justice of peace, certificate to accompany acknowledgment	6919
Mortgages of personal property	8276
Mortgages of real property	8266
Necessary for recording instruments, when	6893
certified instrument recorded, when	6894
Of debt, effect on statute of limitations	9062
Of specific instruments	
articles of incorporation	5907
assignments for benefit of creditors	8621
certificates special partnership	8028
change of partnership name	8021
declaration of homestead	6970
declarations of marriage	5726
deeds valid without, when	6933
Of specific instruments (continued)	
inventory of wife's property	5793
marriage settlements	5805
Officers must affix signatures	6918
Officers must endorse certificates	6913
Officers taking must know persons must know subscribing witnesses	6910
Officers taking proof, authority of	6921
Patents need not be acknowledged	6926
Power of judicial officers to take	8892
Proof of, action to determine, when	8875
effect of judgment	6928
	6929

GENERAL INDEX.

ACKNOWLEDGMENTS (Continued)

Proof of execution without, how made	6920
Subscribing witness must prove what	6922
Validation of certain deeds.....	6933
What instruments must be acknowledged	6893
What law governs.....	6931
What officers may take.....	8875

ACQUISITION

Lands by United States.....	24
Property by taxation.....	29

ACQUITTAL

Bar to subsequent prosecution, when	11581, 12002
Codefendants	11862
Court may advise, when.....	11995
Defense to second prosecution...	11612
Discharge of codefendant to testify	11975
For higher offense, effect of.....	11914
Former acquittal	
effect of.....	11914
form of plea.....	11908
plea of.....	11907
plea of, form of verdict.....	12020
what constitutes.....	11912, 11913
In another county, bar to action, when	11720
In another state, bar to action, when	11719
effect of foreign acquittal.....	11583
Insanity, acquittal on ground of, procedure	12036
Justice courts, immediate discharge	12330
On appeal to district court, discharge	12340
Reasonable doubt, defendant entitled to.....	11971
Variance, defendant not discharged	12034

ACRE

Dimensions	4216
------------------	------

ACREAGE TRACTS

Plat and survey of.....	4993, 4994
-------------------------	------------

ACT

See also Codes—Political Code—Statutes	
Repeal of repealed, revival.....	96
when bar to prosecution.....	97
Union with intent constitutes crime	10726

ACT OF GOD

Excuses performance, when.....	7452
Inland carrier excuses, when.....	7867

ACTIONS

See Criminal Actions—See also specific boards, commissions, and departments	
Abatement of—See Abatement	
Adverse claims to real property..	
.....	9479- 9500
Adoption of code, effect on.....	8

ACTIONS (Continued)

Against	
assessment life companies for noncompliance with laws....	6302
bail	9205
boats—See Boats.....	9602, 9618
joint debtors.....	9762- 9769
nonresidents, limitations.....	9063
sheriff, notice to sureties.....	9824
Agreed statement, submission on.	9872- 9874
Alienation of property pending, effect of.....	9498
Appearance in person or by attorney	8988
Arrest and bail.....	9193- 9219
Associates may be sued, how.....	9089
Attachment	9256- 9300
Attorney-general, to compel examination accounts.....	214
Boats, actions against—See Boats,	9602- 9618
By	
executors and administrators...	10258-10266
partnerships under fictitious names, regulation of.....	8020
Causes may be joined, when.....	9130
Certiorari	9836- 9846
Change of venue—See subtitle venue	
Civil	
arise how.....	9000
arrest of defendant, when permitted	9194
by whom prosecuted.....	9005
civil and criminal remedies not merged	9007
commenced, how.....	9105
one form only	9008
parties, how designated.....	9009
special issues not made by pleadings, how tried.....	9010
time of commencement....	9011- 9046
tried by judge pro tem., when.	8822
Clerk to keep register of.....	9822
Commenced	
in district court, how.....	9105
in justice court, how.....	9626
when	9047
Complaint—See Complaint	
Concerning real property, damages recoverable for injury to possession, when.....	9497
Consolidation, court may order, when	9820
Costs	9786- 9815
on removal before trial.....	9453
County commissioners for support of children.....	5842
Court may order parties in.....	9090
Criminal, how governed.....	9006
Custody of children, for.....	5836
Death by wrongful act, representative may sue.....	9076
Deemed pending, when.....	9821
Defective acknowledgments, to correct, when.....	6927- 6929

GENERAL INDEX.

ACTIONS (Continued)

Defined	8997
Delinquent tax suits	
pleadings	2254
when commenced.....	2253
Demand necessary, time, how	
computed	9058
Disabilities	9049
accrue, when.....	9049
Dismissal of—See Dismissal.....	
.....	12223-12229
Dismissed, when.....	9317
Dissolution of corporations ..	9922- 9928
Eminent domain.....	9933- 9958
Escheated estates.....	9959- 9962
Exclusive control of children.....	5336
For	
abatement of public nuisances..	11127
death or injury.....	9075, 9076
dower	10159, 10160
foreclosure of mortgages—See	
Foreclosure of Mortgage..	9467- 9473
gambling losses, how and by	
whom prosecuted.....	11173, 11174
partition of real property—See	
Partition	9516- 9575
recovery of	
buildings used for gambling,	
when and how.....	11177
real property not prejudiced	
by alienation, when.....	9498
violation of liquor laws	
burden of proof.....	11079
compromise of.....	11079
Forcible entry and detainer.....	9887- 9906
treble damages given.....	9478
Guardian	
ad litem, when.....	9071, 9072
must conduct for minor.....	5687
How affected by Civil Code.....	8775
In	
forma pauperis.....	5780, 9809
justice courts—See Justice	
Courts	9619- 9724
name of party in interest.....	9067
police courts	
how commenced.....	9725
pleadings	9725- 9727
proceedings, how conducted..	9728
Include special proceedings.....	9066
Infants to appear by guardian...	9071
Injunction	9240- 9255
Inspection of writings, when and	
how ordered.....	9771
Intervention, when and how made	9088
Issues	9323- 9327
Joinder when—See Joinder	
Joint tenant against cotenant,	
when	9091
Judgments—See Judgments.....	9313- 9322
Jurisdiction—See Jurisdiction	
Kinds of actions.....	8999
Libel and slander.....	9175, 9176
Liens, to foreclose—See Liens	
Limitation of—See Limitations,	
Statute of	
effect of code on.....	9

ACTIONS (Continued)

Lis pendens—See Lis Pendens	
effect of.....	9109
when and how filed.....	9109
Mandamus	9847- 9860
Marriage	
divorce, limitations on.....	5762
to annul.....	5728
to determine validity of.....	5727
when and by whom commenced	5730
Married women	
actions	
by or against.....	9069
for separate maintenance....	5769
may prosecute, when.....	5791, 5809
Mining claims, established usage	
to govern.....	9499
Minors, actions for injury or	
death of.....	9075
Mutual farm companies, actions	
against, for loss.....	6180
New trials.....	9395- 9402
Nonsuit, when granted.....	9317
Nuisance, for.....	9474
Offer of defendant to compromise,	
procedure on.....	9770
On official bonds.....	482, 505, 506
Order of entry on court calendar	9330
Order of trial.....	9349
Overdue negotiable instruments,	
on	9092
Owner of	
dominant tenement, action by..	6757
servient tenement, action by...	6758
Papers, how served.....	9778
Parental abuse, for.....	5840
Parties to—See Parties.....	9067- 9092
Partition of real property—See	
Partition	9516- 9575
Party in interest must prosecute.	9067
Pendency, notice of.....	9109
Personal injury, certain defenses	
abolished	2836
Persons under disabilities, how af-	
fected by limitation.....	9049
Place of trial—See subtitle venue	
.....	9093- 9104
Pleadings in—See Pleadings.....	9125- 9192
Possession of real property, notice	
unnecessary	6748
Proceedings	
against joint debtors.....	9762- 9769
supplementary	9454- 9466
Prohibition	9861- 9864
Quieting title—See Quieting Title	
.....	9479- 9500
Quo warranto—See Quo Warranto	
Railroad charges, excess	
recovery of.....	3808
to determine reasonableness....	3808
treble damages.....	3808
Real party in interest to prosecute	9067
Real property	
commenced where situated, when	8831
Receivers, when appointed.....	9301
Recovery of corporate stock.....	5989
Redemption of mortgages....	9044, 9045

GENERAL INDEX.

ACTIONS (Continued)

Reference and trial by referee—	
See Reference of Actions 9374—	9386
Register of.....	9822
Rules of pleading—See Pleading.	
.....	11841-11874
Seduction, who may sue for. 9073,	9074
Service, how and on whom made	
.....	9780- 9783
exceptions	9784
Severance, when ordered.....	3149
Sheriff, against executors of, when	4777
Shippers against railroad commis-	
sioners	3810
Statutory and common law abol-	
ished, when.....	2838
Submission of controversy with-	
out	9872- 9874
Substitution of person for defend-	
ant, affidavit and order for..	9087
Successive on same contract, when	
maintained	9819
Summons—See Summons	
Support of	
child from parent's estate.....	5842
indigent parents, actions for...	5855
Sureties and others may set up	
true value of property, when	9188
Survival of	
actions, when.....	9086
effect of transfer of interest	9086
personal injury actions, when..	
.....	7765- 7767
Taxes, recovery of paid under pro-	
test	2269, 2270
Time for commencement—See	
Limitations, Statute of	
Time for commencement when de-	
fendant out of state.....	9048
To	
enjoin liquor nuisances.....	11067
establish title to lands granted	
heirs of deceased entrymen—	
See Real Property.....	9501- 9514
obtain judgment, proving in-	
strument	6928, 6929
quiet title to real property—See	
Quieting Title.....	9479- 9515
recover money illegally paid by	
county commissioners.....	4451
Transfer on creation of new coun-	
ties	4403, 4415- 4417
Trespass for cutting or injuring	
trees	
actions for.....	9476
measure of damages.....	9476, 9477
Trial	9323- 9373
Unlawful detainer.....	9887- 9906
Usage to govern actions respect-	
ing mining claims.....	9499
Venue in district courts	
against counties, where tried..	9095
change of	
on agreement of parties, when	9102
when and how had.....	9098
contracts, where tried.....	9096

ACTIONS (Continued)

Venue in district courts (contin-	
ued)	
costs	
between counties, how paid	
on change.....	9104
of witness on change.....	9103
payment of.....	9100
defendant to demand change,	
when	9097
affidavit of merits.....	9097
disqualification of judge, cause	
to be transferred.....	9099
foreclosure of liens and mort-	
gages	9093
may be tried where commenced,	
when	9099
other actions, according to resi-	
dence of parties.....	9096
papers to be transmitted on	
change of.....	9100
partition of real property.....	9093
penalty or forfeiture, recovery of	9094
place of trial to be changed,	
when	9098
powers of court on transfer....	9100
proceedings after judgment in	
actions affecting real property	9101
public officers, against.....	9094
real property, concerning.....	9093
residence of parties governs	
place of trial, when.....	9096
torts, where tried.....	9096
witnesses, costs, how paid on	
change	9103
Venue in justice courts—See Jus-	
tice Courts.....	9619- 9625
Wages, attorney's fee, when....	3089
Waste, actions for, when.....	9475
Water, actions concerning use of	
—See Water and Water	
Rights	7093- 7135
Wife may defend, when.....	9070

ACTS

See also Codes—Political Code—	
Statutes	
Certain acts to remain in force..	5527
Construction of conflicting acts..	
.....	5521- 5525
Effective date.....	90
Of legislature—See Statutes	

ACTS OR OMISSIONS

Punishment of—See Punishment	
.....	11581-11605

ACTUAL BIAS

Ground of challenge.....	11959
--------------------------	-------

ACTUARY

Employment by insurance com-	
missioner	164

ADDITIONAL HELP

Employment by legislature.....	77
--------------------------------	----

ADDITIONS

To cities and towns—See Cities	
and Towns.....	4976- 4994

GENERAL INDEX.

ADEPTIONS

Advancements constitute, when.. 7050

ADJOINING OWNERS—See

Boundaries—See Fences

ADJOURNMENT

See also Continuance

See also Postponement

By

court in absence of jury...9357, 12016

courts for absence of judge.... 8852

Construed as recess..... 8827

Examination on trial before mag-

istrate 11776

In contempt proceedings..... 9916

Of

courts until next session, when. 8853

district judges, when..... 8826

justice courts for over ten days,

conditions of..... 9670

not over twenty-four hours,

when 9666

On nonjudicial days..... 8851

ADJUTANT-GENERAL

See Militia.....1330- 1383

Bond of..... 464

Duties concerning absent voters'

law 738

Salaries of department..... 440

ADMINISTRATORS

See also Probate Proceedings—

Public Administrator

Assessment of property to..... 2012

Bonds, how governed..... 503

Of sheriff, actions for misconduct 4777

Penalty for failure to file reports 10918

Taxes of estate, payment by..... 2173

ADMISSION TO BAR

See Attorneys-at-Law.....8936- 8973

ADMISSIONS

Of

counterclaim ... 9150

part of plaintiff's claim, effect.. 9149

Offer of compromise not admission 10684

To avoid postponement of trial... 9332

ADMONITION

To jury on adjournment..... 11999

To jury on separation..... 9351

ADOPTION

Minor children

age of adopting parent..... 5857

consent of child, when necessary 5860

consent of child's parents neces-

sary, when..... 5859

deserted child, adoption of.... 5866

effect of adoption..... 5863

effect on former parents..... 5864

from orphans' home or asylum.

consent of trustees..... 5859

illegitimate child, adoption by

father 5865

mutual consent of husband and

wife necessary, when..... 5858

ADOPTION (Continued)

Minor children (continued)

proceedings on adoption..... 5861

order of judge..... 5862

takes family name..... 5863

who may adopt..... 5856

ADULTERATION

See also Dairies and Dairy Prod-
ucts

See also Pure Food and Drug Act

.....2578- 2599

Drugs, forbidden..... 3184

Food and drugs, duty of board of

health 2463

Foods, drugs, and liquors, punish-

ment 11241

Gasoline and oils—See Gasoline

and Oils4193- 4208

Hotels serving adulterated food,

law governing.....11245; 11246

Paris green, lead arsenate and in-

secticides—See Paris Green..

.....2600- 2614

Possession of foodstuffs prima

faeie evidence of guilt..... 11247

Sale of

adulterated milk and cream.... 2620

candies, adulterated, prohibited 11265

ADULTERY

Cause for divorce..... 5736

Confession of, not sufficient for

divorce 10685

Defined 5737

Divorce for, effect on legitimacy

of children.....5775, 5776

Incestuous, when..... 11029

Open and notorious, punishment

for 11006

Punishment for..... 11029

ADULTS

Defined 5673

Majority, how computed..... 5674

ADVANCEMENTS

Are part of distributive share... 7082

Defined 7084

During lifetime of testator, ef-

fect of..... 7011

Effect of death of heirs before de-

cedent 7086

Excess not to be refunded, when 7083

Heir to be excluded, when..... 7083

To heirs, how determined..... 10345

Value, how determined..... 7085

When deemed ademption..... 7050

ADVERSE CLAIM

Depository to notify owner of.... 7645

ADVERSE CLAIMS TO REAL

PROPERTY

Costs, when and how recoverable. 9489

Effect of termination of plaintiff's

title 9490

Inspection and survey.....9492- 9494

Mining claims, actions concerning

..... 9499, 9500

To lots in townsites..... 5320

GENERAL INDEX.

ADVERSE CLAIMS TO REAL PROPERTY (Continued)

Value of improvements set off, when	9491
Who may bring action	9479

ADVERSE INTERESTS

Partners not to acquire	8001
-----------------------------------	------

ADVERSE POSSESSION

See also Limitations, Statute of	9018- 9025
Confers title by prescription, when	6818
Property in, subject to transfer	6840

ADVERTISEMENT

Appropriation by county commissioners for county	4470a
By agents foreign insurance corporations	6152
Contracts by state furnishing board	257
contents of	258
Contracts for constructing highway	1645
Questions submitted to vote	538
School contracts, when necessary	1016

ADVERTISING

Cures of venereal diseases prohibited	11144-11148
Fakers, definition and punishment	11425
False advertising defined	11422
False statement regarding merchandise	11423
penalty for	11424
False, to procure workmen action for damages for	11222
forbidden	11220
punishment for	11221
Fortune-tellers and others forbidden	11523, 11524
Indecent, forbidden	11136
Intoxicating liquor forbidden	11062-11064
Lotteries forbidden	11152, 11153
Posting on public property forbidden	11481
Production of advertisement as evidence	11148
Punishment for false advertising	11424
To	
cure venereal diseases forbidden	11144-11148
procure divorce forbidden	11564
procure miscarriage	11142
Union label, counterfeiting of	11204
Use of flag in, forbidden	11561

AFFIDAVITS

See also Perjury	
See specific proceedings as Attachment, Certiorari, Injunction, Claim and Delivery, etc.	
See also specific titles as Corporations, Mines and Mining, Partnership, etc.	
Before whom taken	
in another state	10640
in foreign countries	10641
in this state	10639

AFFIDAVITS (Continued)

Clerk to certify signature of judge, when	10642
Commission to take testimony	12202
Defective	
heading, effect of	9818
title, immaterial	11873
Defined	10632
Deposition of witness	12189
For removal of prisoner to testify	12186
In justices' and police courts, provisions applicable	12344
In support of search-warrant	12396
New trial, newly discovered evidence	12048
Of deputy county officers	4891
On motion for change of venue in justice court	9621
Postponement of trial	11936
Power of judges to take	8875
Publication	
by printers	10637, 10638
of summons	9117
Service of summons	9110, 9122
Special proceeding, entitling	12430
To accompany	
bills for state printing	279
penalty for false	280
undertaking, form of	9825
To chattel mortgages—See Chattel Mortgages	8275- 8291
When	
admissible as evidence in probate proceedings	10082
used in court proceedings	10636
What officers may take	8875

AFFINITY

Challenge of jurors for	11960
Disqualifies	
judge	8868
juror	9344
referee	9381

AFFIRMATION

Equivalent to oath	10697
Form of	10694, 10695
Oath includes	16
Who may administer	10693

AFFRAYS

Jurisdiction of justice courts	8842, 11630
--	-------------

AGE

Adopting parent	5857
Consent defined	5696, 11000
Majority	5673
Public officers, requirement	410
School attendance	1056

AGE OF CONSENT

In prosecution for rape	11000
To marriage	5696

AGENCY AND AGENTS

For law governing agents of various insurance companies—See Insurance Corporations	6110- 6354
See also Partnership	7981- 8059

GENERAL INDEX.

AGENCY AND AGENTS (Continued)

Actual agency defined.....	7932
Agents	
appointment of.....	7929
to be in writing, when.....	7519
assessment of property to.....	2012
authority of	
actual authority defined.....	7946
construction of.....	7951
damage for breach of warranty of.....	8684
designation of for service of process—See Process	
duty to conform to authority	7801
exceptions to general authority.....	7952
extent of.....	7945
general	
agent to receive price.....	7955
or special.....	7930-7932
necessary authority of.....	7949
ostensible, defined.....	7947
power to disobey instruction, when.....	7950
special agent to receive price	7956
subject to other provisions of code.....	7970
to	
persons having notice of restrictions.....	7948
sell personal property, includes what.....	7953
sell real property, includes what.....	7954
sign negotiable instrument, how shown.....	8426
what may be conferred.....	7934
collecting agent, duty of.....	7803
commission for taking testimony, return by agent 12208,	12209
corporations, acting for when law not complied with.....	11457
duty to keep principal informed	7802
false statements as to consignments.....	11415
for absent heirs—See Probate Proceedings.....	10346-10350
foreign corporations punishable, when.....	11455
husband cannot act for wife, when.....	9989
liability for indorsement of negotiable instrument.....	8476
may perform acts required of principal.....	7935
not to defraud principal.....	7936
provisions of code applicable to responsibility to third persons..	7970
to	
conform to their authority..	7801
keep principal informed.....	7802
want of capacity.....	7970
who may	
act.....	7929
appoint.....	7929
Auctioneer's authority over bidder	7977
Auctioneer's authority over seller.	7976

AGENCY AND AGENTS (Continued)

Code provisions applicable to.....	7970
Collecting agent, responsibility of.	7803
Consideration unnecessary.....	7938
Created, how.....	7937
Defined.....	7928
Delegation of agent's power, when	7971
Factor—See Factor.....	
.....7805-7809, 7978-	7980
Factor, ostensible authority of....	7980
Form of authority.....	7939
General and special agents defined	7930
Insurance solicitor deemed agent of company.....	8104
Kinds of agency.....	7931
Notice to agent, when to principal	7959
Obligation of agent to surrender property.....	7969
Ostensible agency defined.....	7933
Partner agent for firm.....	7997
Principals	
how affected by agents' acts	
within authority.....	7957
notice to agent, when notice to.	7959
obligation for acts under ostensible authority.....	7961
obligation when agent exceeds authority.....	7960
responsibility for negligence of agent.....	7965
responsibility for wilful wrongs of agent.....	7966
rights of persons dealing without knowledge of agency....	7963
when bound by incomplete execution.....	7958
when bound by instrument of agent.....	7964
when exclusive credit given to agent.....	7962
Ratification	
how made.....	7940
not to work injury to third parties.....	7943
of part of transaction.....	7941
rescission of, when.....	7944
void, when.....	7942
Responsibility of agent to third persons.....	7968
Rights of persons dealing without knowledge of agency.....	7963
Service without employment, conditions of.....	7810
Sub agent represents principal, when.....	7973
responsibility of.....	7804
Subagent, unauthorized employment of.....	7972
Terminated, how.....	7974, 7975
Termination, when coupled with interest.....	7975
Warranty of authority by agent..	7967
What acts may be done by agent.	7935
What authority may be conferred	7934
Who may appoint.....	7929

AGGRAVATION

Of punishment, procedure...12067, 12068

GENERAL INDEX.

AGISTERS

Lien of	
defined.....	8385
disposal of proceeds.....	8385
enforcement of lien.....	8385
not to be lost, when.....	8386
notice to other lienholders.....	8383
possession of property.....	8384
sale of property by sheriff.....	8385

AGREED STATEMENT OF FACTS

See Submission of Controversy	
Without Action....	9372, 9872, 9874

AGREEMENTS

See Contracts.....	7467- 7580
See Obligations.....	7394- 7466
See Sales.....	7581- 7631
Not to transfer insurance policy,	
void.....	8120
Writing necessary, when.....	7519

AGRICULTURAL COLLEGE AND EXPERIMENT STATION

See College of Agriculture and	
Mechanic Arts.....	889- 901
Director to inspect seeds.....	3597

AGRICULTURAL CORPORATIONS OR DISTRICTS

See Co-operative Agricultural Cor-	
porations and Districts..	6397- 6427

AGRICULTURAL EXTENSION WORK

Appropriation of money for.....	4487
---------------------------------	------

AGRICULTURAL LAND

Leases for over ten years, when	
void.....	6707

AGRICULTURAL MARKETING ACT

See Co-operative Marketing Act..	
.....	6428- 6449

AGRICULTURAL PRODUCTS

See Dairies and Dairy Products	
Regulation of sale of—See Com-	
mission Merchants.....	4183- 4185

AGRICULTURAL RESOURCES

Collection of statistics concern-	
ing.....	2043- 2047

AGRICULTURAL SEEDS

Defined.....	3593
Director to inspect.....	3597
employment of agents.....	3598
Inspection when offered for sale..	3597
Labels, contents of.....	3594
Penalty for violation of act.....	3596
Prosecutions.....	3602
Testing samples.....	3599
Tests, certificate as evidence.....	3600
Violation of act, duty of experi-	
ment station.....	3601
What seeds excepted.....	3595

AGRICULTURAL SOCIETIES

See also Co-operative Agricultural	
Corporations and Districts...	6397- 6427
How incorporated.....	6453

AGRICULTURE, LABOR AND IN DUSTRY, DEPARTMENT OF

Annual report of commissioner...	3560
Apiculture	
duties concerning.....	3566
inspection of bees.....	3566
quarantine of apiaries.....	3566
Assistants	
employment and compensation..	3559
extra pay forbidden.....	3559
Babcock test, regulation of use...	3570
Beekkeeping—See subtitle apicul-	
ture	
Colonization plans, duties con-	
cerning.....	3561
Commission merchants, control of	3561
Commissioner of agriculture	
appeals to, from decision of in-	
spectors.....	3584
appointment.....	3556
bond.....	3557
member of industrial accident	
board.....	2819
office, where maintained.....	3557
power to prescribe regulations.	3558
salary.....	3557
seal.....	3558
statistics, duties concerning....	3561
term.....	3556
Contingent revolving accounts....	3645
Contracts, power to execute.....	3561
Creation.....	3555
Division of farming and dairying	
apiculture	
powers and duties concerning	3566
separate division may control	3567
Babcock test, regulation of....	3570
beekeeping, powers and duties	
concerning.....	3566
compilation of statistics.....	3568
creation and duties.....	3564
dairy factories to report to....	3569
dairying, duties concerning....	3568
farming defined.....	3564
may require state chemist to	
test samples.....	3568
poultry-raising, duties concern-	
ing.....	3565
registry location of dairy prod-	
uct factories.....	3569
sampling and analyses of dairy	
products.....	3568
sanitary regulation of dairy	
products.....	3572
standards of measure for dairy	
products.....	3571
gallon, cubical contents.....	3571
pound, contents of.....	3571
to study conditions of farm life	3564
Division of grain standards and	
marketing	
agent and broker defined.....	3574

GENERAL INDEX.

AGRICULTURE, LABOR AND INDUSTRY, DEPARTMENT OF (Continued)

Division of grain standards and marketing (continued)	
agricultural seeds	
certificate of tests presumptive evidence	3600
defined	3593
employment and salaries of agents	3598
inspection by director state grain laboratory	3597
labeling, regulation of	3594
penalty for violation of act..	3596
prosecutions for violations of act	3601, 3602
samples, testing of	3599
what seed excepted	3595
appeals to commissioner of agriculture, hearing and order...	3584
barberry plant—See Barberry...	3603-3607
charges public warehousemen, regulation of	3579
commission man defined	3574
creation	3573
definition of terms	3574
deputy inspectors, appointment and duties	3580
discrimination in charges by warehousemen prohibited	3585
dockage, regulation of	3580
duties	3573
fee for inspection and weighing grain	3581
lien on grain	3581
grain cars, examination at destination	3592
grain dealer defined	3574
grain weighers, license of	3592
inspection points	
appointment deputy inspectors	3573
designation of	3573
inspectors, samplers and weighers, appointment of	3576
penalty for misconduct by inspectors	3577
posting copy Montana grades..	3580
public warehouse defined	3574
records of weighing and grading certificate to carrier	3582
regulation charges of public warehousemen	3579
removal of inspectors for misconduct	3583
samplers, appointment of	3576
sampling grain, rules governing	3591
special inspection of grain...	3590
fee for	3590
standard grain grades, procedure for establishment	3580
testing scales, fee for	3575
track buyer defined	3574
warehousemen	
annual report of	3589
bond	3589

AGRICULTURE, LABOR AND INDUSTRY, DEPARTMENT OF (Continued)

Division of grain standards and marketing (continued)	
warehousemen (continued)	
delivery of grain to holder of receipt	3588
discrimination in charges by, prohibited	3585
duty to receive grain	3586
instructions to, by holders of receipts	3588
issuance warehouse receipt...	3586
penalty for unlawful issuance	3587
license fee	3589
penalty for violation of act..	3589
weighers, appointment of	3576
Division of horticulture	
apples, inspection of pack	3630
Arbor day proclamation	3634
crates, destruction when contaminated	3610
crates, reuse of, how	3610
destruction of fruit pests, regulations governing	3610
duties	3608
employment specialist for insect pests	3613
expense of eradicating orchard diseases	3628
collection as tax	3628
disposal of money	3629
how paid	3628
fee for inspecting nursery stock	3614
horticultural districts, how established	3609
horticultural inspector, appointment	3615
importation and sale of infected fruit forbidden	3626
infected trees, destruction of...	3617
assessment of costs	3617
inspection of apples	3630
inspector of fruit pests, appointment and duties	3611
nursery stock	
fee for inspection	3614
inspection of	3614
inspection when grown in Montana	3624
penalty for violation of act	3625
notice to commissioner of shipment	3620
penalty for receiving uninspected	3621
penalty for delivery without certificate	3622
right to hold produce for inspection	3623
penalty for delivery without inspection	3618
regulation of sale	3614
nurserymen's license	3619
application for	3619
bond	3619

GENERAL INDEX.

AGRICULTURE, LABOR AND INDUSTRY, DEPARTMENT OF (Continued)

Division of horticulture (continued)	
nurserymen's license (continued)	
duty to furnish duplicate copies of orders.....	3619
duty to notify inspector of inspection.....	3618
revocation of.....	3619
penalty for failure to disinfect trees.....	3615
penalty for failure to obey rules	3615
penalty for receiving products from infected districts.....	3633
quarantine	
against insect pests and plant diseases in other states..	3631
in state.....	3632
of orchard by commissioner..	3627
penalty for violation of....	3627
removal of infected trees, assessment of costs.....	3617
to notify inspector of the infection of orchards.....	3616
Division of labor and publicity	
annual report to contain account of employment offices..	3636
duties.....	3635
employment offices	
duty to administer.....	3635
maintenance by city councils.	3636
examination of witnesses, powers of commissioner.....	3637
inspection of factories, etc....	3637
labor laws, duty to enforce....	3635
state fair	
advisory board, composition, duties, and fees.....	3641
assistants to advisory board..	3642
control of.....	3640
custody of property.....	3643
letting of privileges, how regulated.....	3643
location of.....	3644
statistics	
duty of public officers to furnish.....	3639
preparation and publication	3638
Divisions	
defined.....	3563
organized.....	3562
purposes of.....	3563
Duties.....	3561
Existing departments abolished..	3646
Farmers' institutes, duties concerning.....	3561
Fees, how disposed of.....	3645
Homeseekers, duties concerning..	3561
Market news service, duties concerning.....	3561
Market statistics, duty concerning	3561
May regulate inspection of hay at market destination.....	4231
Moneys, how disposed of.....	3645
Organization of divisions.....	3562

AGRICULTURE, LABOR AND INDUSTRY, DEPARTMENT OF (Continued)

Penalty for failure to obey orders of department.....	3649
Powers of department.....	3561
Poultry-raising, duties concerning	3565
Public warehouses, duties concerning—See subtitle division of grain standards and marketing.....	3573- 3592
Report of commissioner.....	3560
Reports of marketing associations to commissioner.....	6445
Revolving appropriation accounts, creation of.....	3645
Separate divisions may be created	3567
State fair	
advisory board	
assistants to.....	3642
compensation and duties....	3641
control of.....	3640
custody of property.....	3643
duty to manage.....	3561
letting of privileges.....	3643
location of.....	3644
Statistics	
collection for by county assessor—See Statistics.....	2043- 2047
duties concerning.....	3561
Successor to existing departments	3648
duty to complete contracts....	3648
Transfer of special funds to general funds.....	3647
Warehouses, duties concerning—See subtitle division of grain standards and marketing....	3573- 3592

AIDERS AND ABETTORS

Apprentices, etc., to escape.....	11520
Election frauds.....	10756
In misdemeanors, punishment of..	11586
Persons out of state, punishment for.....	10730

ALCOHOL

See Intoxicating Liquors	
Denatured alcohol, exception prohibition act.....	11050

ALDERMEN—See Cities and Towns

ALFALFA

Standards of—See Hay.....	4229- 4232
---------------------------	------------

ALIAS

Attachment—See Attachments....	9275
Execution from justice courts....	9695
Summons—See Summons.....	9108, 9633, 9634

ALIENATION

Conditions restraining, when void	6704
Future interests suspending, void.	6706
How long may be suspended....	6705
Real property pending suit, effect of.....	9498
Suspension of, by trust.....	6733
chattels, real.....	6732
right to income.....	6715
Widow's right in lands alienated..	5823

GENERAL INDEX.

ALIENS

Effect of war on statute of limitations	9053
Employees, report of	3040- 3043
Escheats, limitations on	9962
Gun license	3708- 3711
Inherit, when and how	7083
Not citizens	37

ALIMONY

See Divorce	5769- 5773
-----------------------	------------

ALLEGATIONS

Admitted by failure to deny	9178
Affirmative, who must prove	10530
Construed liberally	9164
Evidence must conform to	10529
In answer	9137
In reply	9158
Material, defined	9180
Material only proved	10528
Negative proved, when	10530
On information and belief, construction of	9179
Sham or irrelevant, striking of	9166
Variance	9183- 9185
When deemed controverted	9178

ALLEGIANCE

Defined	35
How renounced	36

ALLOWANCE

Alimony	5769
Family allowance—See Probate Proceedings	10144-10150
Support of wife and children on divorce	5771

ALLUVION

See Accession	6819- 6825
-------------------------	------------

ALTERATION

See also Cancellation	
Bills in legislature	10836, 10837
Brands	11211
Contracts—See Contracts	7568- 7572
Fire insurance, increasing risk	8154, 8155
Guarantor, exonerated by	8188
In writings, how and by whom explained	10617
Landmarks	11484
Negotiable instruments	
effect of	8531
what constitutes	8532
Public records	10873
Telegrams	11495

ALTERNATIVE

See Obligations	7409- 7412
---------------------------	------------

AMBIGUITIES

Contracts, how interpreted	7540
Ground for demurrer, when	9131, 9153
Wills, how explained	7022

AMENDMENTS

After demurrer sustained	9189
Articles of incorporation—See Corporations	5918- 5929

AMENDMENTS (Continued)

As of course	9186
Bill of exceptions	9390
Copies, service of	9134, 9186
Court may allow, when	9187
Defendant must answer, when	9134
Effect of verdict	11872
Generally	9187
How made	9186
Imposition of terms	9187
In justices' courts	9647
Location of mining claims—See Mines and Mining	7372- 7380
Not to cause delay of trial	11804
Of	
complaint in forcible entry	9900
indictment or information, when allowed on trial	11870
trial to proceed	11871
process, by court	8844
Statutes, effect of	93
Time for, after demurrer sustained	9192
To	
affidavit or undertaking on attachment	9284
bills of exception	9390
challenge to panel	11948
complaint, answer	9134
information, how and when	11804
interrogatories, when	12205
Void, when	98

AMERICANIZATION SCHOOLS

See Schools, Public	1318- 1322
-------------------------------	------------

AMMUNITION

Sale to Indians prohibited	11259
--------------------------------------	-------

AMUSEMENTS

When prohibited on Sunday	11039
-------------------------------------	-------

ANALYSIS

Food and drugs, samples	2592
Gasoline and oils—See Gasoline and Oils	4193- 4208
Officers may take samples of food for, when	11247

ANCILLARY LETTERS

Duties of petitioner under inheritance tax law	10388
--	-------

ANIMALS

See Livestock	
Agister's lien on	8383- 8386
Bounties for killing—See Bounties	3407- 3417
Branding—See Brands	
Care required of borrower	7705
Control of scab and other diseases—See Livestock	11533- 11540
County bounties on—See Bounties	2082- 2087
Cruelty to—See Cruelty to Animals	11508-11515
Damages for wrongful injuries to	8693
Death from mischievous, penalty	11260
Dogs are personal property	11375
Domestic, property in	6664
Driving on sidewalks	11504

GENERAL INDEX.

ANIMALS (Continued)

Exposing or selling with glanders	11263
False pedigree.....	11417, 11418
Having glanders to be killed....	11264
Impounded, duties of cities and towns concerning—See Cities and Towns.....	5175- 5182
Killing by railroads....	6540-6550, 11278
Larceny of.....	11371
Leaving carcasses near dwellings.	11532
Lost, duty of finder.....	7694- 7700
Obligation of depository.....	7649
Permitting diseased to run at large	11556
Promoting fights between.....	11514
Stallion-keeper's lien—See Stallions	8393- 8395
Wild, subject to ownership.....	6665

ANNOTATIONS

To codes.....	5537
---------------	------

ANNUAL ASSESSMENT WORK

Mining claims, affidavit of performance	7368
---	------

ANNUAL STATEMENTS

Of specific corporations	
accident insurance companies..	6252
assessment life insurance companies	6299
banking corporations.....	6071
building and loan associations..	6365
cemetery associations.....	6484
co-operative marketing associations	6445
domestic corporations.....	6003
liability directors for failure to file.....	6003
foreign corporations.....	6654
foreign fire insurance companies	6151
fraternal benefit societies.....	6328
insurance companies, publication of.....	6120
life insurance companies..	6273- 6299
mutual hail and farm insurance companies	6181
mutual rural insurance companies	6196
railroad companies.....	6522
stock and mutual fire insurance companies	6146
surety companies.....	6214

ANNUITY

Defined	7051
---------------	------

ANNULMENT

Marriage—See Marriage....	5728- 5733
---------------------------	------------

ANOTHER ACTION PENDING

Ground for demurrer.....	9131
--------------------------	------

ANSWER

A pleading of defendant.....	9127
Admission of plaintiff's claim, severance on.....	9149
Allegations, when deemed controverted	9178
Amendments to.....	9183- 9192

ANSWER (Continued)

Constitutes appearance.....	9782
Construction to be liberal.....	9164
Contents of.....	9137
Counterclaim in.....	9138- 9150
Cross-complaint, filing and service	9151
Cross-demands in.....	9145
Defects, when disregarded.....	9191
Defendant to demand affirmative judgment, when.....	9148
Defenses, legal and equitable....	9146
Defenses to be separately numbered and stated.....	9146
Demand for judgment against co-defendant	9177
Demurrer to—See Demurrer.....	9152- 9157
Denials in.....	9137
Disclaimer, in real actions, costs.	9489
Effect of admission of part of plaintiff's claim.....	9149
Failure of, judgment by default..	9322
Filing of.....	9182
Impeachment proceedings... ..	11676, 11677
In certain actions and proceedings	
action against joint debtors....	9765
action for partition.....	9525
claim and delivery, title in third person	9328
contempt proceedings.....	9916
contest of probate.....	10032
eminent domain proceedings...	9942
escheated estates.....	9961
forcible entry and detainer....	9897
injunction, when verified, effect	9249
libel and slander.....	9176
mandamus	9852- 9857
quieting title.....	9489- 9491
to accusations for disbarment..	8970
In justice courts	
See Justice Courts.....	9639- 9647
contents of.....	9642
omission to set up counterclaim, result of.....	9643
Issues raised by.....	9323, 9326
Judgment	
for excess, when had.....	9150
for plaintiff on partial admission of answer.....	9149
on counterclaim, when.....	9140
Limitations, how pleaded....	9065, 9173
Material allegations, what are...	9180
New matter.....	9137
when deemed admitted.....	9178
Objection to complaint may be made by, when.....	9135
when deemed waived.....	9136
Objection to statute of limitations taken by.....	9065
Original lost, how supplied.....	9818
Partial defense, to complaint....	9147
Partial defenses set up, when....	9147
Plaintiff's judgment for excess on defendant's counterclaim.....	9154
Removal of officer.....	11693-11695
Service of.....	9182
Severance of action, court may order, when.....	9149

GENERAL INDEX.

ANSWER (Continued)

Sham or irrelevant, striking out..	9166
Supplemental, allowed.....	9181
Sureties may state true value of property in.....	9188
Time for filing.....	9107
court may extend, when.....	9187
on overruling of demurrer....	9192
Time for, on sustaining of demurrer	9192
To amended complaint, time.....	9134
To amendments, time within which enlargement of time.....	9186, 9823
To complaint in intervention....	9088
To indictment, time allowed....	11890
Verification ...	9163

ANTELOPE

Game animal	3681
Killing prohibited	3719

ANTENUPTIAL AGREEMENTS

Settlement in lieu of dower.....	5824
assent to, how expressed.....	5825

ANTENUPTIAL DEBTS

Husband not liable for, of wife..	5798
-----------------------------------	------

APARTMENT-HOUSES

Regulation of papering—See Wall-paper	2499- 2502
---	------------

APICULTURE

Control by commissioner of agriculture	3566
--	------

APOTHECARIES—See Druggists

APPEALABLE ORDERS

What are	9731, 9732
----------------	------------

APPEALS

See also specific boards and commissions	
Claims	
disallowed by county commissioners	4610
bond on appeal.....	4610
trial of appeal.....	4611
disapproved by board of examiners	248
Contents of record in criminal cases	12045
Costs of, discretionary, when.....	9791
Damage on change of grade.....	5303
District court, to, in civil cases amended pleadings allowed, when benefit of objections in lower court	9755, 9755
costs not recoverable, when....	9758
default judgment, appeal, when allowed	9755
dismissal for failure to prosecute, when	9760
how and when taken.....	9754
judgments, effect of.....	9760
no dismissal for insufficiency of undertaking, when	9761

APPEALS (Continued)

District court, to, in civil cases (continued)	
power of court on appeal..	9755, 9760
provisions of code applicable...	9760
stay of proceedings on execution	9759
duty of officer.....	9759
how effected	9759
sureties	
justify how	9758
qualify how.....	9757
time for taking.....	9754
transmission of papers on appeal	9756
trial de novo.....	9755, 9760
undertaking	
by party recovering judgment	9758
deposit of money equals.....	9757
dismissal for insufficiency, when	9761
exception to sureties.....	9757
when and how given.....	9757
who may appeal.....	9754
District court, to, in criminal cases by	
complainant in proceedings to keep the peace.....	11651
defendant in justice and police courts, time for.....	12334
prosecutor from order to pay costs	12331
discharge of defendant on acquittal, when.....	12340
how taken.....	12335
judgment	
against sureties, when.....	12337
of imprisonment on, how executed	12341
notice of.....	12335
trial de novo.....	12339
undertaking for fine and costs	12336
From final judgment, contents of record	9402
Health, state board, appeals from	2653
Record on appeal from	
final judgment.....	9402
new trial, orders.....	9402
other orders.....	9745
Supreme court to continue injunctions pending.....	8807
Supreme court, to, in civil cases abbreviated record on appeal, when permissible.....	9746
aggrieved party may appeal, when	9730
appealable orders.....	9731, 9732
attachments, when continued in force on.....	9739, 9740
authentication of papers, how..	9746
court may limit security.....	9739
court may review what....	9750, 9751
defective record, procedure to supplement	9749
deposit in lieu of undertaking	9734, 9741
dismissal	
effect of.....	9748
for what cause.....	9747

GENERAL INDEX.

APPEALS (Continued)

Supreme court, to, in civil cases (continued)	
dismissal (continued)	
objections, when deemed waived	9747
sufficient undertaking may be furnished	9747
duty of clerk on rendition of judgment	9753
effect on proceedings in lower court	9739
exception to sureties	
effect of	9741
how taken	9741
executors and administrators	
acts when appointment va- cated	9744
bondsmen liable on appeals by	9743
from what taken	9731
how taken	9733
in particular proceedings	
arbitration	9980
certiorari, mandamus, and pro- hibition	9867
eminent domain	9937
forcible entry and de- tainer	9903, 9905
foreclosure of mechanics' liens	8346
none in contempt proceedings	9921
probate proceedings	10366, 10367
proceedings to dissolve corpo- ration	9928
quo warranto, effect	9601
injunctions, court to continue pending	8807
judgment on	9751
judgments and orders, how re- viewed	9729
justification of sureties, how and when	9741
lower court may dispense with security, when	9739
money judgments, undertaking on appeals from	9735
names of parties	9730
no reversal	
for errors, when	9751
for want of findings, when..	9369
notice of appeal, filing and serv- ice	9733
omitted parts of record, how supplied	9746
orders, appeals from	9731
papers to be furnished	9745
presentation of omitted part of record	9746
order of court authorizing fil- ing	9746
punishment for delay	9752
record on appeal	
from judgments	9402
from new trial orders	9402
from orders other than new trial	9745
how authenticated	9746

APPEALS (Continued)

Supreme court, to, in civil cases (continued)	
record on appeal to	
abbreviated record when per- missible	9746
authentication and certificate	9746
remedial powers of court	9752
remittitur to be certified to clerk of district court, how..	9753
review, extent of	9750
ruling against respondent may be reviewed, when	9751
stay of proceedings	9739
court may limit security on appeal from orders	9731
judgment for delivery of documents or personal property, how	9736
undertaking	9736
judgment for execution of conveyance, how	9737
judgment for sale of real property	9738
undertaking	9738
ordered, when	9732
when and where not allowed.	9742
when and how effected	9735
undertaking	9735
conditions of	9735
judgment on	9735
supplemental transcript, when permitted	9747, 9749
supplementing defective record, procedure	9749
sureties justify, how	9740, 9741
time for taking	9732
transcript—See subtitle record	
undertaking	
deposit in lieu of	9734, 9741
no reversal for insufficiency, when	9747
on appeal, when filed	9733
terms of	9734
to continue attachment on ap- peal	9739
undertakings, single or several.	9740
sureties justify, how	9740
what may be	
appealed from	9731
reviewed on appeal from judgment	9750
when taken	9732
Supreme court, to, in criminal cases	
argument	
necessary before reversal	12122
of counsel, how restricted	12123
by whom taken	12105
certificate of probable cause, stay	12113
clerk to transmit record on ap- peal	12116
codefendants, one or more may take	12118
correction of informality, when and how	12121
court may reverse, affirm, or modify judgment	12127

GENERAL INDEX.

APPEALS (Continued)

Supreme court, to, in criminal cases (continued)	
defendant discharged on reversal of judgment.....	12129
defendant may appeal from what.....	12105, 12107
need not be present.....	12124
discharge of defendant on reversal.....	12129
dismissal for	
irregularity, when and how..	12119
effect of.....	12119
want of return, when.....	12120
duty of clerks upon appeal....	12116
effect of appeal by defendant..	12113
sheriff to keep defendant in custody, when.....	12114, 12115
error in instructions, no reversal, when.....	11969
exceptions—See Exceptions.....	12037-12045
extent of the matter reviewed on appeal by defendant.....	12126
how taken.....	12110
informality to be disregarded..	12121
instructions part of.....	12043
joint defendants, one may appeal.....	12118
judgment	
executed on affirmance.....	12130
how entered.....	12131
without regard to technical errors.....	12125
jurisdiction ceases after remittitur.....	12132
new	
appeal, when.....	12121
trial, where to be had.....	12128
undertaking, when given....	12121
notice of, service.....	12110
number of counsel to be heard..	12123
on removal from office, extent of review.....	11700
parties, how designated.....	12106
power of court on.....	12127
record	
by bill of exceptions, what constitutes.....	12045
duty of clerk of district court on, contents of.....	12045
remanding to district court....	12127
remittitur.....	12131
reversal after argument.....	12122
review of proceedings as to incorrigibles.....	12505
service of notice by publication, when.....	12111
state may appeal from what...	12108
stay on appeal by defendant...	12113
technicalities to be disregarded	12125
time for taking.....	12109
transcript of minutes, when used.....	12045
when codefendant, defendant may appeal, effect of.....	12118
when tried.....	12117

APPEALS TO DISTRICT COURT—

See Appeals, subtitle district court

APPEALS TO SUPREME COURT—

See Appeals, subtitle supreme court

APPEARANCE

Defendant to	
appear in person for verdict, when.....	12018
have notice of proceedings after	9782
Equivalent to service of summons	9123
Failure waives	
findings.....	9368
jury.....	9365
Forfeiture bail for want of, when	11878
In	
civil actions, when and how made.....	8988, 9782
disbarment proceedings.....	8967
justices' courts, failure, procedure.....	9677
hour for.....	9637
how made.....	9629
of defendant, time for.....	9632
proceedings in escheat.....	9961
Of corporation, how.....	12236
Party may appear in person or by attorney.....	8988
Service of papers after.....	9782
Time, inserted in summons.....	9107
Waiver of summons.....	9106
What constitutes.....	9782

APPLES

Box to be marked standard.....	4269
Classification and quality.....	4268
Culls.....	4271
Grade, number and grower.....	4267
Grades, enumeration of.....	4270
Inspection by commissioner of agriculture when packed for sale.....	3630
fee for.....	3630
Penalty for violation of act.....	4272
Pounds in bushel.....	4226
Short boxes to be marked.....	4266
Standard box.....	4265
Standard grades defined.....	4270

APPLICATION

Contempt, when.....	8878
For leave to file information....	11624
Of general performance, how....	7430
To court, repetition prohibited...	8877

APPOINTMENTS

Buying prohibited.....	10829
Governor to transmit to legislature.....	125
Public officers—See Public Officers.....	419- 429

APPORTIONMENT

Compensation for hire.....	7740
Covenants.....	7423
Easements in partition.....	6755
Freightage according to distance.	7841
Freightage by contract.....	7839

GENERAL INDEX.

APPORTIONMENT (Continued)

House of representatives.....	44
Members legislative assembly—	
See Legislative Assembly.....	44-
School moneys, how made.....	1204

APPRAISEMENT

Eminent domain	
appeal from award of appraisers	9947
appointment of appraisers.....	9943
costs of	9953
duties of appraisers.....	9944
meeting of appraisers, when...	9944
objections to appraisers.....	9943
report of appraisers.....	9946

Estates

appointment of appraisers.....	10130
appraisers' compensation.....	10130
appraisers must sign inventory.	10135
duty of appraisers.....	10131
inventory to contain.....	10129
oath of appraisers.....	10131
of after-discovered property...	10137
when unnecessary	10132

Homestead

See Homesteads.....	6954- 6960
costs, how paid.....	10156
duty of appraisers.....	10153
hearing on report.....	10155
majority of appraisers may act.	10154
report of appraisers.....	10154

Inheritance tax—See Inheritance

Tax	10377-10400
-----------	-------------

Penalty for false appraisal of

state lands.....	1826
------------------	------

Property of

nonresident ward.....	10450
ward	10422

Stock on sale of corporate property—See Corporations..6006, 6007

APPRAISERS

Offering bribes to.....	10853
Receiving bribes.....	10854

APPRENTICES

Age to be inserted in indenture..	5894
Aiding to run away.....	11520
Annulment, when.....	5898
Conditions in indenture.....	5895
Consent, by whom given.....	5891
County commissioners may bind	
out, when.....	5893
Executors may bind out, when...	5892
Indenture	
causes for annulling.....	5898
conditions of.....	5896
deposit of.....	5897
duplicate, deposit with county	
clerk	5899
Minors may apprentice.....	5890
Use of force in correcting.....	10980

APPROPRIATION

Water—See Water and Water	
Rights	7093- 7135
Water by Carey land board.....	1965

APPROPRIATIONS

See also Budget.....	298- 302
Annual, in cities.....	5218

APPROPRIATIONS (Continued)

Contracts in excess, prohibited...	269
Necessary for expenditure state	
funds	193
Reversion of surplus.....	304
Revolving appropriations state in-	
stitutions	194
contingent revolving accounts..	195
Veto of items.....	86

APPROVAL

Bonds of county and township	
officers	471- 474

APPURTENANCES

See also Fixtures	
To land defined.....	6671

ARBITRATION

Agreements for, not specifically	
enforced	8720
Appeal from order to modify....	9980
Arbitrators, powers of.....	9975
compelled to make award.....	9974
majority may determine ques-	
tion	9976
oath to be taken.....	9976
Award	
entered in judgment-book....	9977
how enforced.....	9974
to be in writing.....	9977
Controversies, when and by whom	
submitted	9972
Court may modify award, when..	9979
Court may vacate, when.....	9978
Effect of death or stay on time for	
commencement	9059
Judgment, when entered.....	9977
Limitations, statute of.....	9059
Partner cannot submit to.....	7998
Recovery on revocation, amount	
of	9981
Submission	
how revoked.....	9974
may be entered as order of	
court	9974
to be in writing.....	9973
Vacation award on what grounds.	9978

ARBITRATION AND CONCILIATION, BOARD OF

Applications to, and notice.....	3056
Compensation	3060
Composition and term.....	3052
Controversies, settlement of.....	3055
Decision and report.....	3057
Decision, when binding.....	3058
Expert assistants.....	3056
Oath and organization.....	3054
Officers	3054
Reports of.....	3057
Settlement of controversies by..	3055
Special board	
how chosen.....	3059
powers of.....	3059
procedure before.....	3059
Strikes and lockouts, duties con-	
cerning	3059

GENERAL INDEX.

ARBITRATION AND CONCILIATION, BOARD OF (Continued)

Submission of disputes to local board	3059
Who may be appointed	3053
Witnesses, fees of	3059

ARBITRATORS

Bribery of	10853
Embracery, punishment	10858
Improper influencing of	10856
Receiving bribes	10854

ARBOR DAY

Date of	1068
Exercises in schools	1069, 1070
Proclamation	3634
School not to be dismissed on	1062

ARCHITECTS

Annual fees of	3238
Architectural board fund	3237
Architectural examiners	
appointment and term	3229
certificates, granting of	3231
certificates, recording	3232
examinations, subjects	3231
fees and mileage of	3237
fees for examinations	3236
funds of	3237
organization and meetings	3230
powers	3230
records	3230
reports of	3237
Demit on removal	3239
License	2441
Licenses	
revocation of	3240
when granted without examination	3235
Penalty for practicing without a license	3234
Revocation of license	3240
Seals	3233

ARCHITECTURAL EXAMINERS, BOARD OF—See Architects

ARGUMENT

Comment on failure of defendant to testify	12177
on law of case	11969
Extent of comment by counsel	9349
In mandamus	9856, 9857
On	
appeal	
number of counsel	12123
reversal after	12122
new trial, what not allowed	12047
trial of case, how conducted	11969
To jury, how regulated	9349
When cases may be brought before court for	9404

ARID LANDS

See Carey Land Act Board	1949- 1995
See Irrigation Districts	

ARMED MEN

Bringing into state forbidden, when	11315
Ordering out to quell riots—See Riots	11655-11667

ARMISTICE DAY

Holiday	10
School not to be dismissed on	1062

ARMORIES

County commissioners may erect, when	1400
--	------

ARMS

Exempt from execution, when	9428
Of state, unlawful retention of	11332
selling by militia	11333

ARRAIGNMENT

Answer of defendant may contain what	11890
Arrest of defendant for failure to appear	11878
Counsel, assignment on	11886
Court to order defendant committed to custody, when	11884
Defendant in custody to be brought before court	11877
Defendant may be committed if present	11885
warrant to issue, when	11885
Defendants	
when and where arraigned	11875
when to be present	11876
Demurrer may be interposed, when	11897
Directions to be contained in warrant	11881
Forfeiture of bail on failure of defendant to appear	11878
How made	11888
Of defendant for judgment, how	12064
Procedure when defendant gives bail in another county	11883
Proceedings when defendant not indicated by true name	11889
Right of defendant to counsel upon	11886
compensation of attorney, how fixed	11887
Time allowed defendant to plead	11890
Warrant, how and by whom issued	11879
form of	11880
how served	11882

ARREST OF JUDGMENT

By court without motion, when	12052
Certain objections may be taken by	11906
Defendant to be held or discharged, when	12054
Defined	12051
Effect of	12053
Motion, on what founded	12051
when to be made	12051

ARRESTS

See also Imprisonment	9875- 9886
After	
bail, when ordered	12167
discharge on habeas corpus, when permissible	12371
Assistance, summoning of	11756
Attorneys-at-law may visit prisoner on request	8990, 11774
Authority, duty of officer to show	11758

GENERAL INDEX.

ARRESTS (Continued)

Bail	
admission to, when offense not within jurisdiction of magistrate	11748
on arrest for misdemeanor in another county	11740
on, generally—See Bail	
Breaking of doors and windows, authority to	11761, 11762, 11772
By	
peace officers, when made	11753
private person, when made	
duty of	11751, 11754, 11755
duty of	11764, 11766
telegraph, how made	11767, 11768
whom made	11751
Carrying concealed weapons	12305
Counsel	
information as to rights	11773
sending for	11774
Daytime, made in, when	11757
Defect in form of warrant, habeas corpus	12363
Defendant	
arrested after bail, when	12167
before whom taken	11739
failing to appear for sentence	12060-12062
on bail, failure to appear	11878
to be	
informed of rights	11773
taken before magistrate where and when	11744, 11747
Definition	11751
Degree of restraint allowed	11752
Delay in taking person before magistrate	10920
Doors and windows broken, when and by whom	11761, 11762
Duty of	
officer arresting	11747-11758
in conveying prisoner	11749
private person arresting	11764
Election between arrest and other remedies, when required	9311
Electors, exemption from	541
Escapes	
persons arresting may break doors and windows, when	11772
right of person arresting to pursue	11771
Examination	
magistrate to inform defendant of right	11773
of defendant when no other provisions made	11769
Executors and administrators, when	10128
Exhibition of warrant	11759
For contempt of court—See Contempts	9909-9921
Force may be used, when	11760
Foresters, arrest by, without warrant, when	2767
Form of warrant	11733
Fugitives from	
other states	12418-12426
reform school	12509

ARRESTS (Continued)

Gambling, authority to break into buildings	11168
How made	11752-11758
duty to inform prisoner of charge	11758
restraint of person	11752
In civil actions	
For law relating to discharge of persons imprisoned on civil process—See Imprisonment	9875-9886
affidavit for	9196
arrest forbidden, when	9193
attorneys may see persons arrested	8990
bail	
actions against, when	9205
court to endorse allowance	9211
exceptions to	9207
form of undertaking	9202
how exonerated	9204-9206
justification of	9197-9210
may surrender defendant, when	9203, 9204
new undertaking, when required	9208
notice of justification	9208
proceedings to reduce	9218
qualifications of	9209
substitution for deposit	9214
when reduced	9219
defendant	
discharged on giving bail	9201
may be arrested, when	9194
deposit of money	
how applied	9215
instead of bail	9212
certificate of payment	9213
payment of money into court by sheriff	9213
election between arrest and other remedies, when required	9311
electors, exemption from	541
exceptions to bail	9207
executors and administrators, when	10128
filing of order of arrest	9207
for contempt of court—See Contempts	9908-9921
foresters, arrest by, without warrant, when	2767
militia, exemption from	1378
official bond liable on judgment against sheriff	9217
order of arrest	
application to vacate	9218
when effected	9219
how executed	9200
how obtained	9195
how served on defendant	9199
when made, and contents	9196-9198
plaintiff to advance expenses of keeping, when	9200
policemen, exemption from	5102
return of sheriff on order	9198
sheriff liable for escape, when	9216
discharge from liability, how exonerated, when	9211

GENERAL INDEX.

ARRESTS (Continued)

In civil actions (continued)	
surrender of defendant, when and how effected.....	9204
undertaking and justification of sureties	9196, 9197
In justice courts in civil actions	
—See Justice Courts.....	9652- 9658
In proceedings supplementary....	9455
Indictment on, findings of.....	11839
Inhumanity to prisoners.....	10922
Magistrate	
may order orally.....	11755
who issued warrant must act, when	11744
Making without lawful authority	10921
Malicious	
procuring of warrant of.....	10948
under color of official right.....	11394
Militia, exemption from.....	1378
Misdemeanors	
bail	11748
in another county	
bail	11740-11742
defendant, how admitted to bail	11740
proceedings	
in such cases.....	11741
when bail not given.....	11742
Night-time, when made in.....	11753, 11757
No delay in taking defendant before magistrate	11744
Of	
dead body, punishment.....	11037
defendant on failure to appear for arraignment.....	11878
fugitives, receiving fees.....	10919
person having will in possession	10024
Officer	
arresting with warrant, duty of	11765
exempt from arrest on civil process	11750
may	
arrest in another county.....	11738
convey prisoner through any county	11749
power of, to require aid.....	11750
refusing to arrest.....	10916
to deliver warrant and return to magistrate.....	11742
Oral order for, when.....	11755
Peace officers may, when.....	11753
Penalty for making without authority	10921
Person	
assisting escape.....	10870, 10871
in charge of gambling devices.....	11166
making, may summon assistant.....	11756
to be informed of what.....	11758
Police to keep record of goods taken from prisoner.....	12246
Policemen, exemption from.....	5102
Powers of officers.....	11750
Prisoners, how produced and examined	10628-10630
Private person	
duty on making.....	11764
may arrest, when.....	11754

ARRESTS (Continued)

Procedure where defendant taken before other magistrate..	11745
triable in other county.....	11746
Receipt for money, etc., taken from prisoner.....	12245
Refusal to aid in.....	10930
Rescue of person under.....	10864
Resisting officers.....	10928
Restraint necessary.....	11752
Rioters failing to disperse.....	11659
Security to keep the peace.....	11639
Taking of weapons from prisoner	11763
Telegraph, procedure to arrest by	11767, 11768
Trial and judgment of misdemeanor	11770
Upon filing information.....	11626
Warrant of arrest	
contents	11734
directed to whom.....	11735-11737
execution in any county.....	11737, 11738
felony, defendant taken before what magistrate.....	11739
form of.....	11733
peace officers must execute....	11735
to be shown, when.....	11759
to what peace officers directed	11736, 11737
Weapons taken from persons arrested	11763
disposal of.....	11763
What	
force to be used.....	11760
time of day it may be made...	11757
When	
force not unlawful.....	10980
peace officer may make.....	11753
warrant to issue.....	11730
With warrant, duty of officer...	11765
Without	
lawful authority.....	10921
probable cause, habeas corpus..	12362
warrant	
duty of person arresting.....	11766
for carrying concealed weapons	11305
procedure	11731
Witnesses	
exempt from, when.....	10676-10678
how discharged from.....	10679
refusing to appear.....	10626

ARSON

Building defined.....	11338
Burning defined.....	11341
of insured property.....	11426
when not arson.....	11476
Defined	11337
Degrees of.....	11343, 11344
First and second degree distinguished	11344
Inhabited building defined.....	11339
Night-time defined.....	11340
Ownership of building, what constitutes	11342
Punishment	11345

GENERAL INDEX.

ART

Injuring works of..... 11497, 11498

ARTICLES OF INCORPORATION

See Corporations for general law
.....5904- 5913
See also specific titles
Amendment of
See Corporations.....5918- 5929
Banks 6021
Commissioner of insurance to ap-
prove 6129
Fees for filing..... 145

ARTICLES OF WAR

Enumeration of..... 1398

ARTIFICIAL LIGHTS

Use of, in taking game prohibited 3694

ARTISANS

Tools exempt from execution..... 9428

ASSAULTS

Actions for, time for commence-
ment 9032
By officers under color of author-
ity 10929
First degree definition and pen-
alty 10976
In presence of court, security to
keep peace 11646
Jurisdiction of justice courts.... 8842
Possession of deadly weapon with
intent to..... 11354
Second degree, definition and pen-
alty 10977
Third degree, definition and pen-
alty 10978
jurisdiction of justices' courts.. 11630
Use of force lawful, when..... 10980
With caustic chemicals..... 10979

ASSAYERS

Property exempt from execution 9428
Regulation of.....3436- 3438
Umpire3439, 3440

ASSAYING

Interference with samples..... 11420
Of ores, penalty for commingling
foreign substances..... 3438
Publishing false assay..... 11421

ASSEMBLY—See Unlawful Assem- bly

ASSESSED VALUATION

County assessor to report valua-
tion of school districts..... 1215

ASSESSMENT

Property for taxation—See Taxa-
tion, subtitle assessment of
property
Railroads, telegraph, telephone,
and electric light lines..... 2021

ASSESSMENT ACCIDENT IN- SURANCE COMPANIES

See Insurance Corporations...6237-6256

ASSESSMENT LIFE INSURANCE COMPANIES

See Insurance Corporations...6293-6304
Contents of articles of incorpora-
tion 5906

ASSESSMENTS

By corporations—See Corporations
.....5973- 5993
Legality not triable in justice
courts 9625

ASSESSOR, COUNTY

See Counties, subtitle assessor
See also Cities and Towns for city
and special improvement as-
sessments
See also Taxation, subtitle assess-
ment of property
Bond 466
Duties concerning assessments—
See Taxation, subtitle assess-
ment of property
False statement to..... 11324
Offering bribes to..... 10853
Receiving bribes..... 10854
Refusing list of property to..... 11323
Salary 4867

ASSIGNATION HOUSES

See also Prostitution
Keeping of, misdemeanor..... 11141

ASSIGNMENTS

See Negotiable Instruments Law
.....8401- 8596
See also Transfers
Certificate of tax-sale..... 2207
Check operates as, when..... 8596
Debt transfers security..... 8261
Dower, by what law regulated... 5829
Effect on insurance policies—See
Insurance .. 8068, 8160
Fraudulent 11435
by debtor 10932
Indexes of, by county clerk..... 4799
Invalid, when..... 4179
Loan, when considered as..... 4180
No bar to counterclaims, when... 9145
Of
choses in action, effect..... 9068
contract to purchase land by
executors 10240
dower 10158
thing in action not to prejudice
defense 9068
Partner cannot assign property.. 7998
Preferred creditors, who are.... 8351
Recording assignment of mort-
gage not notice to mortgagor 826C
release by assignee..... 8271
Salaries to wage-brokers..... 4176
Wife to join in..... 4178

GENERAL INDEX.

ASSIGNMENTS FOR BENEFIT OF CREDITORS

Assent of creditors to modification necessary	8641
Assignee	
accounting by	8637
compensation of	8639
duties of	8634
judge may remove	8631
not to dispose of estate, when . .	8631
protected for what acts	8640
takes subject to what rights . . .	8623
Bond of assignee	8630, 8631
cancellation of bond	8631
By corporation, how governed . . .	8273
Certain transactions not affected .	8614
Corporations, how executed and filed	8273
Debtor may execute, when	8612
Discharge of assignee by court for neglect, when	8631
Exempt property, effect of assignment	8638
Failure to record, effect of	8628
Further security required, when . .	8636
Insolvency, what constitutes	8613
Instrument of assignment, contents of	8621
compliance with act necessary . .	8622
Inventory, contents of	8624
filing of	8626, 8627
penalty for failure to file	8625
verification of	8625
Joint and separate debts, preference of	8619
Modification of, by assent of creditors	8641
Notice to be given to interested parties, when	8633
Notice to creditors, how given . . .	8632
contents of claim	8632
Partner cannot make	7998
Permits protest before maturity of note	8565
Powers of assignee before giving bond	8631
Powers of court concerning	8635
conduct of business	8635
payment of creditors without claims	8635
reopening estates	8635
Preference for wages, when	8616
Preference must be absolute	8617
Real property, by what law governed	8629
Record of assignment	8626, 8627
Rights not affected by preference .	8618
Supplemental inventories	8631
Void, when	8620
Wages preferred claims, when . . .	8351
What debts may be secured	8615

ASSISTANT ATTORNEYS-GENERAL

Appointment and salaries	202
Qualifications	203

ASSISTANT SERGEANT-AT-ARMS

Duties of	70
---------------------	----

ASSISTANT STATE EXAMINERS

Appointment and salary	219
Bonds	223

ASSOCIATIONS

Building and loan—See Building and Loan Associations	6355- 6374
Cemetery—See Cemetery Associations	6469- 6502
Change of name	9964
Co-operative—See Co-operative Associations	6375- 6396
Co-operative agricultural—See Co-operative Agricultural Corporations and Districts	6397- 6427
Co-operative marketing—See Co-operative Marketing Act 6428	6449
Fraternal benefit—See Fraternal Benefit Societies	6305- 6344
Members, how sued	9089

ASSUMPTION OF RISK

Defense excluded, when	2836
Rule when abolished as to railroads	6607

ASYLUMS

See Insane Asylum	1413- 1444
See School for the Deaf and Blind	1456- 1483
Adoption of children from	5867

ATHLETIC COMMISSION

See County Athletic Commission	4551- 4562
--	------------

ATTACHMENT OF PERSON

Custodian secreting will	10024
Executor refusing to appear	10142
For contempt	9911
Witness disobeying subpoena	10626

ATTACHMENTS

See also Exemptions	
Additional levies, when made	9265
Affidavit for attachment, contents of	9257, 9258
Alias writs, when and how issued .	9275
Amendments of affidavit or undertaking, when permitted	9284
Attachment-book, contents of	9293
Authorized, when	9256
Before maturity of debt, when allowed	9258
Benefits fraternal societies forbidden	6326
Boats, attachments of	9602, 9609
Certificate of defendant's interest to be furnished	9263
persons refusing, examination of .	9264
Claim	
for wages on levy of—See Wages	8354- 8357
of property by third persons, how made	9273
Conditional sales notes, how attached	9291
Corporations, shares of stock, how attached	9261
Dead bodies, forbidden	11037

GENERAL INDEX.

ATTACHMENTS (Continued)

Death of defendant does not dissolve	9274
Debts	
and credits, collection, when...	9270
due defendant, how attached...	9261
or credits, and personal property, how attached.....	9262
Defendant may apply for discharge on what grounds.....	9282
motion on affidavits, how opposed	9283
writ must be discharged, when.	9284
Direction of writ to sheriff.....	9260
Discharge of	
application for.....	9280, 9282
writ, when granted.....	9284
Disobedience to writ of habeas corpus	12354
Duty of county clerk to record papers	9299
Election between remedies, when required	9311
Enumeration of property subject to	9424
Exemptions from.....	9427, 9428
Fraudulent conveyances to avoid	11433
Garnishee, citation to, examination of.....	9268
Garnishee liable to plaintiff, when	9267
Garnishment	
of public officers, procedure for	9294
on written instructions from plaintiff	9266
property in hands third persons	9266
Goods in warehousemen's possession	4103
How continued in force on appeal	9739
Improper issuance, application for discharge	9282
motion on affidavits, how opposed	9283
writ must be discharged, when.	9284
In justice courts—See Justice Courts	9659, 9662
Increase of security.....	9285, 9286
Indexes by county clerk.....	4799
Inventory of property, making and return.....	9269
Issue in action to compel release of oil and gas leases.....	6903
Judgment	
balance due, how collected.....	9277
for defendant, sheriff to deliver what	9279
for plaintiff, how satisfied.....	9276
how attached.....	9262
how satisfied.....	9276
Keepers, appointment and fees...	4916
Levy of attachment, how made..	9262
Lien for different attachments accrue, when.....	9288
Lien of officer.....	8391
Liens for wages—See Civil Code	
Mortgaged personal property	
how attached.....	9292
procedure for.....	8283
Motion to	
discharge, by whom made..	9280, 9282

ATTACHMENTS (Continued)

Motion to (continued)	
increase security, by whom made	9285
how made.....	9286
vacate or modify writ, by whom made	9285
how made.....	9286
Not to be made public, when....	455
Of boats, when.....	9602
On complaint for bastardy.....	12270
On hearing for writ of habeas corpus	12359
On what actions lie.....	9256
Opposing motions by affidavit....	9283
Partners may apply to discharge, when	9289
undertaking to be given.....	9290
Penalty for making without lawful authority.....	10921
Perishable property, how disposed of	9270
Personal property, how attached..	9262
Pledged personal property, how attached	9292
Praecipe to sheriff.....	9266
Prior to maturity of debt, when issued	9258
judgments, how rendered.....	9258
Property	
application for order to sell....	9272
covered by conditional sales notes or agreements.....	9291
exempt from—See Exemptions	
may be sold as under execution, when	9271
Range-stock	
duty of county clerk to record	9299
filing of copy of process, where and when made.....	9296
possession under mortgage, how acquired	9297
procedure to attach.....	9296
subsequent attachment, how made	9300
time of continuance.....	9298
Real property, how attached.....	9262
Release of attachments	
order for release, contents of..	9281
proceedings, before whom taken	9280
undertaking	
execution by defendant.....	9280
to be required.....	9281
Retaking of goods from custody	10865
Return of writ, when and how made	9287
Sale of attached property, balance, how disposed of	9277
Satisfaction of judgment from, how made.....	9276
Shares of stock, how attached..	9261
of foreign corporations and joint-stock companies.....	9295
of foreign corporations, when..	6661
Sheriff to take into custody books and papers.....	9265

GENERAL INDEX.

ATTACHMENTS (Continued)

Sheriff's liability for failure to levy	4781
Stock of co-operative associations exempt	6383
Stocks or shares, how attached...	9262
Suits may be commenced on undertaking, when.....	9278
Third-party claims, how asserted	9273
Title reservation notes, how collected	9291
Undertaking, form and sufficiency objection to sureties.....	9259
to continue on appeal to supreme court.....	9736
When granted.....	9256
When not granted with arrest and injunction	9311
When to be discharged.....	9284
Writ	
contents of.....	9260
return of.....	9287
to whom directed.....	9260
Written specification of property to be attached, when necessary	9288

ATTEMPTS

Defendant may be convicted of..	11868
Definition	11590
Escape from state prison.....	10867
Fraudulent voting or registering.	10750
How punishable.....	11591
Interference with electric apparatus	11473
Jury may find upon charge of greater offense.....	12024
Prior conviction, punishment....	11594
Second offense, how punished....	11593
To rescue prisoners.....	10864
To wreck, hold up, etc., railroad trains	11469-11471
When punishable.....	11590

ATTENDANT

To supreme court acts as clerk, when	377
--	-----

ATTORNEY-GENERAL

Actions to compel examination of accounts	214
After term of office, must not defend, when.....	8985
Assistants	
appointment and salary.....	202
qualifications	203
Bond of.....	201, 464
Disbarment of attorneys, duties concerning	8951-8953
Duties	
as to lotteries.....	11155
concerning escheats.....	206
farm loans, approval of abstracts	1935
generally	199
to	
defend military officers and soldiers	1347

ATTORNEY-GENERAL (Continued)

Duties (continued)	
to (continued)	
enforce	
bank act.....	6078, 6079, 6086
orders of railroad commission	3806
act as attorney for.....	3802
enjoin liquor nuisances.....	11067
investigate and prosecute violations of prohibition law..	11109
prosecute	
accident insurance companies, when.....	6254
assessment life insurance companies, when.....	6302
when succession of property not claimed by aliens.....	7089
Election of.....	111
Escheated estates, duties concerning	206, 9959
Governor may direct, when.....	124
Inheritance tax, duties concerning —See Inheritance Tax..	10377-10400
Investigation of unfair price discrimination	10905-10911
Law clerk, appointment and salary	204
Legal adviser	
fish and game commission.....	3675
industrial accident board.....	2835
railroad commission.....	3802
May	
commence quo warranto, when	9578, 9579
not dismiss prosecution without consent of court.....	12228
Member of state board of	
canvassers	803
circulating libraries.....	1571
commissioners for the insane...	199
education	830
equalization	113, 2122
examiners	232
furnishing board.....	254
land commissioners.....	199, 1809
prison commissioners.....	117, 12434
teachers' retirement salary fund	1118
Members of militia, duty to defend suits against.....	1347
Opinions, duty to give.....	199
Partner must not defend.....	8984
Powers	
inquire into corporate existence	6000
Recovery of escheats.....	9959
Register, duty to keep.....	199
Reports to governor, duty to make	199
Salary	200
of members of department..	202, 204
Stenographers to.....	204, 205
Suits, duty to prosecute, when...	199
Supervisory powers of.....	199
Vacancy, how filled.....	516
Witnesses, power to subpoena....	4902

GENERAL INDEX.

ATTORNEYS-AT-LAW

See also Counsel

Admission to practice	
certificate of, and license, issuance of.....	8938
diplomas from state university to admit, when.....	8937
examination, form and manner of	8937
from other states, procedure for oath	8939
roll of attorneys.....	8941
supreme court may establish rules for.....	8942
testimonials required.....	8937
who may be given.....	8936
Advertising to procure divorce...	11564
Appointment	
by court to defend accused, when	11886
in probate proceedings, when..	10370
Argument	
by—See Argument	
to jury, how regulated.....	9349
Attorneys' license tax fund	
creation of.....	8946
expenses paid out of.....	8956
fees deposited in.....	8950
how used.....	8949
transfer to library fund.....	8960
Authority	
generally	8974
how revoked.....	8974
Barratry, punishment.....	10936, 10937
Buying	
claims for purpose of suit prohibited	8980
demands to bring suit.....	10939
Cannot be witness, when.....	10536
Certain officers forbidden from practicing as.....	8992
Change of, how effected.....	8975
notice of.....	8976
Collusion, punishment for.....	8978
Common barratry defined.....	10936
proof required.....	10937
Compensation—See subtitle fees	
when appointed to defend.....	11887
Complaints against—See subtitle	
disbarment	8951- 8957
Court	
may require proof of authority.	8994
to assign counsel on arraignment, when.....	11886
Death or removal, appointment of successor	8977
Deceit, punishment for.....	8978
Defendant on examination may send for.....	11774
Disbarment and suspension on complaint	
complaints	
against attorneys, how instituted and prosecuted.....	8951
to attorney-general or district judge, procedure.....	8952
expenses of attorney-general for investigation, how paid.....	8956
other expenses, how paid.....	8957

ATTORNEYS-AT-LAW (Continued)

Disbarment and suspension on complaint (continued)	
reference ordered, when and how	8954
special investigator	
appointment of.....	8953
fees and expenses.....	8953
supreme court to make rules...	8954
witness for complainant, fees and mileage.....	8955
Disbarment or suspension by court in certain cases	
accusation	
how objected to.....	8968
must be in writing.....	8964
to be verified.....	8965
accused to answer, when.....	8970
accused to appear and answer..	8967
causes for removal or suspension	8961
citation to issue.....	8966
conviction of crime, clerk to transmit record to court....	8962
demurrer to accusation, when..	8969
denial of accusation, how entered	8969
grounds for.....	8961
judgment, entry and effect....	8973
proceedings for, how taken....	8963
references to take deposition, when ordered.....	8972
supreme court to have exclusive jurisdiction	8961
trial, how conducted.....	8971
Duty of party to action when attorney employed.....	8988
Examining board, appointment and power.....	8948
compensation and expenses....	8949
Exemptions from execution.....	9428
Fees	
allowance	
on	
actions for release of oil and gas leases.....	6903
foreclosure of liens.....	9799
foreclosure of mortgages..	9798
to unlicensed persons forbidden	8958
allowed on claims for salary or wages, when 3089, 8352, 8355,	9800
not included in cost-bill.....	9801
for	
recovery of excess railroad charges	3808
settling estates, allowance of	9786, 10285
how fixed.....	9786
liens for.....	8993
on application for admission to bar	8950
when taxed as costs in actions for killing livestock.....	6544
For foreign insurance companies, how designated.....	6149
Forbidden to defend prosecutions, when	10940, 10941

GENERAL INDEX.

ATTORNEYS-AT-LAW (Continued)

Former county attorney not to defend, when.....	8985
Giving consideration for business forbidden.....	8981
exceptions.....	8982
rule when party prosecutes in person.....	8983
How served with papers.....	9779
Judge to appoint defendant at taking deposition of witness.....	12193
Judges and justices not to act as.....	8869-8871
Judicial officers not to have practicing partners.....	8870
License	
certificate of admission constitutues.....	8938
tax	
collection from delinquent attorneys, how.....	8959
paid by.....	8945
unexpended portion, how used.....	8960
Lien for compensation.....	8993
Limitation upon sections prohibiting certain acts.....	8982
rule when party prosecutes in person.....	8983
May	
be required to show authority, when.....	8984
comment upon what in argument.....	11969
defend himself.....	10941
defend in person when prosecuted.....	8989
visit defendant arrested.....	11744
Misconduct.....	10938
Not to	
act as receivers, when.....	9304
appear on application for parole of convicts.....	12266
become surety on bonds, when.....	8991
Oath of.....	8939
Other prohibitions against.....	8981
exceptions.....	8982
rule when party prosecutes in person.....	8983
Pardons, may be present at hearing.....	12254
Parties may appear in person or by attorneys.....	8988
Partners not to appear on opposite sides, when.....	8986
penalty for violation of act....	8987
Partner of county attorneys not to participate in certain litigation.....	8984
Penalty for practicing without license.....	8943
Penalty for practicing without license tax certificate.....	8947
Practicing law defined.....	8944
Practicing law, to whom forbidden.....	8869-8871, 8992
Powers of.....	8974
Prisoners, right to consult.....	8990

ATTORNEYS-AT-LAW (Continued)

Privileged communications to....	10536
Probate proceedings, appointment for minors or absent heirs...	10370
Prohibited from buying notes and accounts, when.....	8980
exceptions.....	8982
rule when party prosecutes in person.....	8983
Punishment for deceit or collusion.....	8978
Punishment for wilful delay.....	8979
exceptions.....	8982
rule when party prosecutes in person.....	8983
Reference to law governing.....	409
Right to see prisoners.....	8990
Service on, for nonresident parties.....	9783
Sheriffs and deputies not to act as.....	4740
Surety on bond, not to become, when.....	8991
Suspension—See subtitle disbarment and suspension	
When not to defend or advise...	10940
Who may be admitted.....	8936
Who must not practice..	8869-8871, 8992

ATTORNEYS' EXAMINING BOARD

See Attorneys-at-Law.....	8948, 8949
---------------------------	------------

ATTORNEYS' FEES

See Attorneys-at-Law, subtitle fees	
-------------------------------------	--

ATTORNEYS IN FACT

Form of certificate of acknowledgment.....	6917
Form of execution of instruments.....	6863
Revocation of power to be recorded.....	6937
To satisfy mortgages, when.....	8271

ATTORNMMENT OF TENANT

Unnecessary, when.....	6872
Viod, when.....	7748

AUCTIONS AND AUCTIONEERS

Acting as, without authority....	11329
Assistants, employment of.....	4150
Authority over	
bidder.....	7977
seller.....	7976
Bond of.....	4147, 4148
Book of sales.....	4155
Books for livestock.....	4154
Clerk and criers.....	4150
Commissions.....	4156
Crier, employment of.....	4150
Failure of auctioneer to record sales of stock.....	11541
Memorandum of sales at.....	7519
Obtaining property by mock auction, punishment.....	11414
Penalty for overcharge.....	4156
Place of business	
city authorities to designate, when.....	4153
designation of.....	4151
selling elsewhere prohibited....	4152

GENERAL INDEX.

AUCTIONS AND AUCTIONEERS

(Continued)

Rules governing sales at—See Sales	7625- 7631
Sales	
for payment of storage charges	7665
of pledged property at	8311
Sheriffs and constables ex officio auctioneers	4149
Who may become	4147

AUDITOR, COUNTY

Audit of claims by	4830
Bond of	4826, 4826
Compensation	4867
Creation of office	4824
Deputies	
in first class counties	4883
number allowed	4880
salary of	4880
Duties	
generally	4829- 4834
of all auditing officers	448
Election	4825
Examination of books and accounts	4832
Expenses	4827
Inspector of weights and measures	4236
Market master ex officio	4490
Oath	4826
Oaths, power to administer	4828
Other duties	4834
Payment of salary and expenses	4827
Process, power to issue	4828
Qualifications of	4825
Record of claims	4831
Records, preservation of	4829
Residence	4827
Salary	4867
Superintendent of poor	4833
Term of office	4825

AUDITOR, STATE

See also Fire Marshal, State	2737- 2762
See also Insurance Commissioner	
See also Investment Commissioner	4026- 4055
See also Real Estate Commissioner	4056- 4078
Bond of	157, 464
deputy	464
Budget, duties concerning—See Budget	297
Certain duties transferred to superintendent of banks	6083
Certificate of settlement, contents of	152
Claims, when forbidden to pay	249
Commissioner of insurance—See Insurance Commissioner	
Defaulters, proceedings against	155
Duties	
as ex officio commissioner of insurance	6110
generally	151
of all auditing officers	448
Duties concerning	
prosecution of revenue officers	2266

AUDITOR, STATE (Continued)

Duties concerning (continued)

publication of report of fees	4748
school fund	153
issuance of warrants for	945
settlement with clerks of supreme court	374
Election of—See Constitution	
Escheated estates, duty to draw warrant for	9962, 10351
Examination of books of	
by board of examiners	251- 253
revenue officers	2265, 2266
Fees of	4912
Fire marshal	
See also Fire Marshal, State	2737- 2762
assistant, appointment of	2740
duties concerning	2734- 2762
Forest reserve fund, apportionment of	176
Hail insurance, member of board	350
Inspection, access to offices for	156
Insurance commissioner, ex officio	162
See also main title Insurance Commissioner	
deputy insurance commissioner, appointment of	162
Investment commissioner, ex officio	160, 4053
Licenses	
duties concerning	151
of insurance corporations	6112, 6113
payment of portion to fire departments	5127
Lost warrants, issue duplicates	159
Member	
board of circulating libraries	1571
industrial accident board	2819
state board of	
canvassers	803
equalization	113, 2122
hail insurance	350
pardons	118
trustees law library	1548
voting-machine commissioners	757
Neglect of duty a felony, when	11331
Net value life insurance policies, duty to ascertain	6261
Real estate commissioner ex officio	161
Report of	151
Restrictions on payment of salary of judges	8815
Salaries of department	440
Salary	436
School fund, duties concerning	153, 945
Settlement of accounts, certificate	152
State fire marshal, supervision of—See Fire Marshal	2737- 2762
Statement on report of taxes	2261
Surety companies, duties as to responsibility	9826
Taxation settlements by county officers—See Taxation	2255- 2267
Unexhausted appropriation necessary for issuance of warrants	193
Vacancy in office, how filled	516

GENERAL INDEX.

AUDITOR, STATE (Continued)

Warrants	
bounty claims.....	3413
cancellation of unclaimed.....	158
duplicates, issuance of.....	159
duties concerning.....	151
duty to draw for approved	
claims.....	239
escheated estates, duty to draw	
for.....9962,	10351
forbidden to draw, when.....	249
hail insurance.....	361
order of drawing.....	154
securities purchased with normal school funds.....	930

AUDITORS OF LIFE INSURANCE POLICIES

See Abstraters Life Insurance Policies.....	170- 173
---	----------

AUTHENTICATION

Journals of senate and house of representatives.....	68
Judicial records, how—See Evidence.....	10555-10557
Of marriage—See Marriage.....	5709- 5723
See also Political Code, page 47	
Testimony witnesses in homicide cases.....	11783
Record on appeal to supreme court	9746

AUTHORITY

Agents—See Agency.....	7928- 7956
Arrests without, penalty for.....	10921
Assault by officers under color of.....	10929
Attorneys may be required to show.....	8994
Construction words giving joint..	14
Parental ceases, when.....	5841
When joint, how construed.....	10713

AUTHORSHIP

Effect of publication.....	6809
Ownership of joint products.....	6807
Products of the mind, ownership of.....	6806
Right of subsequent authors.....	6810
Transfer of products of the mind.	6808

AUTOMOBILES

Duty to stop at railroad crossings	3842
Killing game from, prohibited...	3694
Possession when parts have been removed, prohibited.....	11479
penalty for selling or disposing of.....	11480
Punishment for use without owner's consent.....	11478
Putting glass and nails in streets prohibited.....	1740
Registration	
fees for.....	1760
of—See Motor Vehicles....	1755- 1763
Regulation by cities—See Cities and Towns.....	5041, 5042
Seizure and sale for violation of liquor laws.....	11073
Speed and traffic regulations—See Highways.....	1742- 1754

AVULSION

Owner may reclaim land, when...	6821
---------------------------------	------

BABCOCK TEST

Regulation of use by department of agriculture.....	3570
Standard dairy test.....	3570

BACHELOR TAX

Establishment of.....	2273
-----------------------	------

BADGE

Railroad employees to wear.....	6563
Secret societies, wearing, when forbidden.....	1410

BAGGAGE

Amount passenger is entitled to..	7856
Defined.....	7857
Duty of carrier to receive.....	7856
Duty of railroad to affix checks..	6557
Hotels, liability for—See Deposit.....	7673- 7684
How carried and delivered.....	7859
Liability of carrier for.....	7858
Lien of hotels, etc., on and sale to satisfy—See Deposit.....	7673- 7684
Penalty for false show of.....	11579
Sale of unclaimed baggage by hotels.....	7676
by railroads.....	7665- 7672

BAIL

Action on undertaking, what not to bar.....	12163
Admission to	
defined.....	12133
on habeas corpus.....	12366
when offense not within jurisdiction of magistrate.....	11748
After conviction	
nature of undertaking.....	12138
when.....	12137
Arrest	
for misdemeanor in another county, bail on.....	11740-11742
of defendant, when ordered....	12167
Before conviction	
nature of undertaking.....	12138
when allowable.....	12136
By person arrested for contempt of court.....	9912- 9914
Court to fix, when.....	12145
Default to be entered in minutes	12161
Defendant	
found insane, exoneration, when	12217
in justice's court, admissible to, when.....	12342
Deposit	
forfeiture, to whom paid.....	12166
in lieu, exoneration.....	12155
in lieu of.....	12154-12156
Discharge of defendant on giving	12144
During continuance, when.....	12225
Exoneration, allowance of demurrer to information.....	11903
dismissal of action.....	12226
on allowance of motion in arrest of judgment.....	12054
on reversal of judgment, when.	12129
upon conviction.....	12035
when.....	11994

GENERAL INDEX.

BAIL (Continued)

For appearance in district court discharge of defendant, when..	12144
form of undertaking.....	12141
Forfeiture	
how enforced.....	12164
on default of person under bail.	12161
on failure of defendant to appear for arraignment.....	11878
Forfeiture of bail	
action against bail by county attorney, when.....	12164
default of person to be entered	12161
defendant's absence at sentence discharge of, when.....	12160
how forfeited.....	12160
money, how disposed of.....	12166
real property liable.....	12165
surrender of defendant releases surety	12162
when	11878
when and how.....	12160
Form of undertaking.....	12149
Fugitives from other states.	12421, 12422
Habeas corpus	
for purpose of.....	12365
judge may take bail.....	12366
In another county, procedure.....	11883
In justice and police courts.....	12342
provisions applicable.....	12342
Increase or reduction.....	12151
Indorsement on warrant.....	12146
after indictment, how.....	11840
Justification of sureties....	12143, 12150
Kinds of bail.....	12138
Liability of real estate.....	12165
May be increased, when.....	11884
Misdemeanors, admission to.....	11748
in another county.....	11740, 11742
Money forfeited, how disposed of	12166
None in capital cases.	12135, 12145, 12147
Notice of application given county attorney	12139
Offenses not bailable, when.....	12135
On appeal	
qualifications of bail.....	12153
undertaking, contents of.....	12153
who may admit to.....	12152
On arrest of person in civil action—See Arrest.....	9193- 9219
On commitment.....	11788
On habeas corpus.....	12148
On holding to answer before information	
defendant to be discharged on allowance	12144
form of undertaking.....	12141
how put in.....	12141
justification of bail.....	12143
qualifications of bail.....	12142
what magistrate may admit....	12140
On indictment.....	11840
On indictment or information before conviction	
allowed when offense is not capital, how.....	12145
bail on habeas corpus.....	12148
clerk to indorse warrant.....	12146
form of undertaking.....	12149

BAIL (Continued)

On indictment or information before conviction (continued)	
increase of, when and how....	12151
procedure when offense is capital	12147
provisions applicable to qualifications of bail.....	12150
reduction of, when and how....	12151
undertaking, form of.....	12149
On postponement of examination	11776
Order for, on commitment.....	11788
Qualifications of bail.....	12142
Reasonable notice given to county attorney, when.....	12139
Recommitment of defendant after bail	
defendant may be admitted to bail, when.....	12171
bail, by whom taken.....	12172
defendant may be arrested in another county.....	12169
defendant may be arrested, when	12167
contents of order.....	12168
defendant to be committed for failure to appear, when.....	12170
how put in.....	12174
qualifications of bail.....	12174
undertaking, form of.....	12173
Reduction, notice to county attorney	12151
Release, when.....	12159, 12162
Sureties, qualifications.....	12142, 12150, 12153
Surrender of defendant, release..	12162
return of deposit.....	12159
when and how.....	12157, 12158
Taking of, defined.....	12134
Upon recommitment, form of undertaking	12173
What magistrates may admit to..	12140
What will not bar action on bond	12163
When default to be entered.....	12161
When not allowable.....	12135
When notice required.....	12139
Witnesses, forfeiture.....	12185

BAILIFFS

Misconduct when in charge of jury	10859
Oath on final retirement of jury..	12005
Oath when placed in charge of jury during trial.....	11998

BAILMENT—See Deposit, Hiring, Loan, Pledge

BAKERIES

License	2589
Weight of bread—See Bread	

BALLOTS

See Election Frauds and Offenses	10747-10772
See Elections.....	531- 828
See also Corrupt Practices Act....	10773-10820

BAND CONCERTS

Cities may provide for.....	5047
tax-levy for.....	5048

GENERAL INDEX.

BANK EXAMINER, STATE—See	
Banks and Banking, subtitle	
banking department, state	
Bond of.....	464
assistant.....	464
City moneys	
conditions of deposit.....	5036
statement of deposit by.....	5036
Deposit of public funds	
report of.....	189, 4767
security.....	4767
Examination by state examiner..	210
Officers as notaries public.....	390
State examiner's fund.....	221
failure to pay, penalty for....	222
Stock, classification for taxation	1999
Taxation—See Taxation.....	2063- 2067
of bank stock—See Taxation...	
.....	2064- 2067

BANKING DEPARTMENT, STATE —See Banks and Banking

BANKRUPTCY	
See Assignments for Benefit of	
Creditors.....	8612- 8641

BANKS AND BANKING

Includes banks, state, national,	
and private, savings banks,	
trust and investment compa-	
nies, and state banking de-	
partment	
Acceptances, authority to deal in.	6087
Actions against banks to recover	
money, time for commence-	
ment.....	9046
actions on forged or altered	
checks.....	9046
Advertisement of amount of cap-	
ital paid in.....	6046
Application for certificates to	
transact business.....	6021
Articles of agreement	
contents and filing.....	6021
superintendent of banks to ex-	
amine.....	6021
Attorney-general, duties concern-	
ing.....	6078, 6079, 6086
Authority to deal in drafts and	
acceptances.....	6087
Bank act, designation and scope..	
.....	6014, 6015
Bank examiner—See subtitle bank-	
ing department, state	
Bank notes—See Negotiable In-	
struments Law	
Banker's lien.....	8388
Banking department, state	
compensation of examiner and	
deputies.....	6070
creation of.....	6070
deposits in insolvent bank, pen-	
alty for making.....	6081
deputies and clerks.....	6070
duties and powers of examiner	
of banks.....	6083
examination by examiner of	
banks.....	6083
examiner to call for reports....	6074

BANKS AND BANKING (Con-	
tinued)	
Banking department, state (con-	
tinued)	
expenses of examiner, payment	
of.....	6080
insolvency or impairment, pro-	
ceedings on.....	6078
penalty for	
failure to make reports.....	6076
false statements and entries	6077
making and receiving deposits	
in insolvent banks.....	6081, 6082
receiver, appointment of.....	6079
regulation of private banks by	
—See subtitle private banks	
repeal of former acts.....	6086
reports	
and records of superintendent	6084
confidential.....	6075
of declaration of dividends..	6072
to examiners of banks.....	6071
state banking fund, fees.....	6085
state examiner ex officio super-	
intendent of banks.....	6070
superintendent of banks	
appointment, bond and salary	6070
authority to examine accounts	6044
banking business prohibited	
except under permit from..	6043
bond of.....	464
bond of assistants.....	464
certificate to be procured from	6044
deputies and clerks, appoint-	
ment and salary.....	6070
duties of auditor transferred	
to.....	6083
duty to call for reports.....	6074
examination of banks by.....	210, 6083
expenses, how paid.....	6080
insolvency or impairment of	
bank, duties on.....	6078, 6079
report declaration dividend to	6072
reports	
confidential.....	6075
special, to.....	6073
to.....	6071
reports and records of.....	6084
reserves, approval by.....	6069
state examiner's fund....	221, 222
supervision, duties concerning	6083
surplus, regulation of.....	6048
Banks authorized to join national	
reserve.....	6042
Banks, defined and classified....	6015
Board of directors—See subtitle	
directors	
Bond issue, limit on amount.....	6052
Books with list of stockholders to	
be kept.....	6047
Borrowing money, limitations on.	6059
Business, regulation by superin-	
tendent of banks.....	6043
By-laws	
adoption and contents.....	6029
repeal or amendment, how....	6029
Capital stock	
amount of.....	6023
classification for taxation.....	1999

GENERAL INDEX.

BANKS AND BANKING (Continued)

Capital stock (continued)	
increase or decrease of.....	6030
purchase or loan prohibited....	6050
to be paid up.....	6044
penalty for violation of act....	6044
transfer, how effected.....	6037
Certificate of authorization	
duty of examiner of banks.....	6021
regulation of issuance.....	6021
rejection conclusive.....	6022
Certificate of change from state to national bank.....	6091
Certificate of proceedings on change of name, etc.....	6034
Certified checks, regulation of issuance	6063
Change from	
national to state bank, procedure	6092
state to national bank, procedure	6088
surrender of charter and reduction of capital stock....	6089, 6090
Change of	
corporate name	
certificate of proceedings....	6034
how	6031
procedure for.....	6033
number of directors	
certificate of proceedings....	6034
procedure for.....	6033
place of business	
certificate of proceedings....	6034
procedure for.....	6033
Checks, liability for nonpayment through error.....	6094
Checks, liability for payment of forged or raised, when.....	6093
City moneys, conditions of deposit	5036
Classification of banks.....	6015
Collection of negotiable instruments, liability.....	6108
Commercial banks	
amount of capital stock.....	6023
defined	6017
Conducting banking business, to whom prohibited.....	6043
Conversion by officers, larceny..	11382
Cumulative voting.....	6038
Definition of terms.....	6015, 6017-6020
Demand deposits.....	6068
Deposit of public funds, conditions governing	189, 4767
security	4767
Depositories of public funds.....	182
Deposits	
by minor.....	6067
demand and time defined.....	6068
in insolvent banks, penalty for receiving	6081
joint deposits.....	6065
trusts deposits, how paid.....	6066
Directors	
change in number of.....	6026
how authorized.....	6032

BANKS AND BANKING (Continued)

Directors (continued)	
election of.....	6038
felonies by, acts constituting...	6054
fraudulent acts, penalty for...	6054
liability for failure to make report	6071
meetings and minutes.....	6028
misdemeanors by, acts constituting	6055
must be stockholders.....	6027
number, qualifications, oath and term	6025
officers and employees.....	6028
personal liability on failure to make reports.....	6076
powers	6028
purchase of obligations by, forbidden	6057
sale of securities by, forbidden	6051
secretary, election by.....	6028
vacancies, how filled.....	6025
Disposition of acquired stock....	6053
Dissolution of, how effected.....	6035
Dividends	
regulation of.....	6048
report of declaration.....	6072
Drafts, authority to accept....	6087
Due diligence defined.....	6109
Duty to furnish statements to public administrators on demand	10010
penalty for refusal to furnish..	10011
Elections	
cumulative balloting.....	6038
how conducted.....	6038
proxies	6038
Examination by bank examiner..	6083
False statement to banks respecting financial condition.....	11408
False statements and entries, penalty for.....	6077
First meeting, calling of.....	6024
First meeting, penalty for failure to hold.....	6024
Foreign corporations authorized to do business in state.....	6045
Forged checks, liability for paying	6093
Fraudulent acts by directors or officers	6054, 6055
Incorporation of banks, how proved on forgery trials....	11983
Increase or decrease of capital stock, procedure for.....	6033
Insolvency or impairment, procedure on.....	6078
not to receive deposits, when	6081, 6082
penalty for false statements..	6082
Interest, lawful rate.....	6064
Investment company defined.....	6020
Joint deposits.....	6065
Letters of credit, authority to issue	6087
Liability for forged or raised checks	6093

GENERAL INDEX.

BANKS AND BANKING (Continued)

Liability of stockholders....	6036, 6056
Liability on negotiable instruments forwarded for collection	6108
due diligence defined.....	6109
Limit of indebtedness allowed...	6069
List of stockholders to be kept..	6047
Loans	
limitation on.....	6059
on capital stock prohibited....	6050
regulation of, on real estate...	6062
to managing officer, regulation of	6060
Loss charged to surplus.....	6048
Making, passing, etc., of bills	11360, 11361
Minors, stock, how represented..	6038
deposits by.....	6067
Minute-book	6028
penalty for false entries in...	6028
Name, how changed.....	6031
National banks	
certificate of comptroller of currency as evidence.....	5915
change from state to.....	6088-6092
reorganization as state banks..	6092
National reserve, banks empowered to join.....	6042
Number of persons necessary to form a corporation.....	6016
Officers	
See also subtitle directors	
enumeration of.....	6028
fraudulent acts by.....	6054, 6055
overdrawing account, punishment	11442
personal profit from loans prohibited	6055
regulation of loans to.....	6060
Officers as notaries public.....	390
Overdrafts by officers and directors forbidden.....	6055
Penalty for conducting business without permit.....	6044
Penalty for official misconduct...	6054
Penalty for violation of act....	6086
Place of business, how changed..	6032
Preferred stocks prohibited.....	6023
Presentment of negotiable instruments for payment.....	8482-8494
President, election of.....	6028
Prior offenses not affected by act	11444
Private banks	
duty of state examiner on insolvency	6101
examiner, compensation and expenses	6105
inspection by state examiner..	6097
information confidential.....	6098
making false entries, penalty for	6107
name, designation of.....	6095
penalty for failure of examiner to perform duty.....	6106
property or assets required....	6096
receiver, compensation of.....	6104

BANKS AND BANKING (Continued)

Private banks (continued)	
receiver, procedure for appointment	6103
receiving deposits when insolvent, penalty for.....	6107
report by examiner of impairment of assets.....	6100
reports to state examiner.....	6099
state examiner may take charge of, when.....	6100
state examiner to take charge of, when.....	6102
Profits, how calculated.....	6061
Proxies	6038
Purchase of assets by officers at discount prohibited.....	6058
Purchase of capital stock of other corporations, when authorized	6053
Purchase of obligations by officers at discount prohibited.....	6057
Purchase or loan of capital stock prohibited	6050
Real estate	
limitation of loans on.....	6062
limitation of purchase and conveyance	6039, 6040
Receiver, procedure and appointment	6079
Receiving deposits by insolvent..	11443, 11444
Repeal of former acts.....	6086
Reports	
confidential	6075
contents and publication.....	6071
declaration of dividend.....	6072
examiner to call for, when....	6074
penalty for failure to make...	6076
liability of directors.....	6076
special reports to superintendent of banks, when.....	6071, 6073
Reserve banks.....	6069
Reserve requirements	6069
designation of agent.....	6069
how estimated	6069
Safe-deposit department.....	6049
Sale of securities by officer to bank, regulation of.....	6051
Savings banks	
amount of capital stock.....	6023
defined	6018
investment of capital.....	6039
officers not to borrow funds...	6039
real estate, limitations on holding	6039
Savings, officers overdrawing account	11442
State banking fund.....	6085
State banks	
certificate of change.....	6091
change to national.....	6088
reduction of capital stock.....	6090
surrender of charter.....	6089
State examiner's fund.....	221
penalty for failure to pay.....	222
Statement of resources, regulation of	6046

GENERAL INDEX.

BANKS AND BANKING (Continued)

Statements, false, penalty for....	6077
Stock—See subtitle capital stock	
Stock books, when closed for elections	6038
Stock certificates, transfer of....	6037
Stockholders	
annual meeting, when held.....	6025
liability of.....	6036
waiver of liability void.....	6056
list to be kept.....	6047
voting, how conducted.....	6038
Superintendent of banks—See subtitle banking department, state	
Surrender of charter by state bank	6089
Survivorship	6065
Taking name of another bank prohibited	9964
Taxation of banks—See Taxation	2063-2067
Term of corporate existence.....	6021
Time deposits.....	6068
Transfer of stock certificates.....	6037
Trust and investment companies, amount of capital stock....	6023
Trust company	
defined	6019
investment of capital.....	6041
property dealing, limitation of	6041
purposes of.....	6019
Trust deposits, payment of, on death of trustee.....	6066
Unincorporated banks—See subtitle private banks.....	6095-6107
Unlawful to transact banking business, how.....	6015
Unlawfully issuing paper of....	11525
Uttering fraudulent checks on banks, larceny.....	11369
Waiver of stockholders' liability prohibited	6056

BAR

Acquittal or conviction, when...	11581, 11583, 12002
Allowance of demurrer to information, when, when not....	11902
Compromise of misdemeanors....	12221
Conviction or acquittal	
for offenses included in former	11914
in another county.....	11720
in another state.....	11719
of offense consisting of degrees	12002
Discharge of codefendant to testify	11975
Dismissal	11686
Impeachment no bar to indictment or information.....	11686
Setting aside information is not.	11895
To criminal prosecution.....	97
To information, dismissal of charge by grand jury.....	11835
To recovery on undertaking, what not	12163
What may not be pleaded on new trial	12047

BARBED-WIRE FENCES

Permitting to become dangerous..	11557
To be kept in repair.....	3376

BARBERRY PLANT

Extirmination of.....	3604
Harmful, defined.....	3605
Horticultural board, duty of....	3604
Other species.....	3606
Penalty for violation of act,....	3607
Sale, prohibition against.....	3603

BARBERS

Conducting business on Sunday forbidden	11040, 11041
---	--------------

BARLEY

Pounds in bushel.....	4226
-----------------------	------

BARRATRY

Defined, and punishment for....	10936
proof required.....	10937

BARREL

Gallons in.....	4220
-----------------	------

BASTARDS—See Illegitimate Children

BASTARDY, PROCEEDINGS IN

Clerk to give notice, how.....	12268
Complaint, how filed and entitled	12267
County attorney to prosecute....	12271
Issues on trial.....	12272
Judge may order attachment without bond.....	12270
Judgment if accused found guilty	12273
Lien upon real property, how created	12269
Power of court over judgments and orders.....	12274

BATHS

Public baths in cities.....	5045, 5046
-----------------------------	------------

BATTERY

See Assaults	
Jurisdiction in justices' courts....	8842
Time for bringing action.....	9032

BAWDY-HOUSES—See Prostitution

BEANS

Pounds in bushel.....	4226
-----------------------	------

BEARER

Defined in negotiable instruments act	8402
Stock certificates—See Corporations	5959-5965

BEAVER

Killing and trapping regulated...	3722
-----------------------------------	------

BEAVERHEAD COUNTY

Boundaries and county seat.....	4305
---------------------------------	------

BEAVERHEAD FISH AND GAME PRESERVE

See Game and Fish.....	3775, 3776
------------------------	------------

BEDS AND BEDDING

In hotels.....	2487
----------------	------

BEEF

See also Meat—Slaughter-houses	
License to sell.....	3348

GENERAL INDEX.

BEEF (Continued)

- Preservation hides of slaughtered cattle 3346, 3347
- Sale of diseased carcasses forbidden 11243

BEE-KEEPING

- Controlled by commissioner of agriculture 3566

BEER

- See Intoxicating Liquors . . . 11048-11133

BEETS

- Pounds in bushel 4226

BEGGARS

- Penalty for using child as 11021
- Vagrancy 11521

BELL

- Duty of railroads to provide and sound 6521

BENCH-WARRANT

- Issuance on failure to appear for arraignment 11879-11882
- Issuance to produce defendant for judgment, when 12060
- arrest of defendant 12063
- form of warrant 12061
- warrant, how served 12062

BENEFICIARIES

- See also Trusts 7878- 7927
- Liability for testators' obligations 7070

BENEFIT

- Acceptance of, imposes duty to perform 7497
- Consent of party not necessary to transfer of 7413

BENEVOLENT SOCIETIES

- Incorporation of—See Corporations 6453- 6461

BEQUESTS

- See also Wills
- Cities and towns may take 5043
- how administered 5044
- Tax on—See Inheritance Tax 10377-10400

BETTING

- See Racing Bets 11180-11183
- See also Gambling 11159-11183
- Election bets forbidden 10767, 10794

BIAS OR PREJUDICE

- Disqualification of judges 8868
- Challenge of juror for . . . 9344, 11959, 11960
- Change of venue 9097
- in justices' courts 9620

BIDS—See Auctions—See Sales

BIG HORN COUNTY

- Boundaries and county seat 4306

BIGAMY

- Defined 11025
- exceptions 11026
- punishment 11027
- Evidence on trial for 11982
- Ground for annulling marriage . . . 5729

BIGAMY (Continued)

- Jurisdiction when defendant apprehended in another county. 11711
- Marrying spouse of another 11028

BILL OF COSTS

- See Costs
- Items included 9801, 9802
- On appeal 9805
- Service and filing 9803
- Unnecessary in justices' courts . . . 9804

BILL OF EXCEPTIONS

- See Exceptions . . . 9386-9394, 12037-12045
- Exceptions to errors in instructions incorporated in 9349
- Extension of time, limitations . . . 9823

BILL OF PARTICULARS

- Copy of account delivered to adverse party, when 9167
- In justice courts 9649
- Inspection and taking copy of writing, how compelled 9771
- Writings in possession of adverse party 10586

BILL OF SALE

- Chattel mortgage, when 8285

BILLIARD-HALLS

- See Poolhalls 11188-11192
- License of 2434

BILLS

- See Statutes 84- 98
- Member of legislature to disclose interest in 10844
- Penalty for altering in legislature 10836, 10837

BILLS AND NOTES

- See Negotiable Instruments Law 8401- 8596

BILLS OF EXCHANGE

- See Negotiable Instruments Law 8433- 8590

BILLS OF LADING

- Are negotiable 7829, 7830
- "Bearer" bills, transfer of 7830
- Carrier exonerated from liability by delivery, when 7833
- Carrier may demand surrender or delivery 7834
- Carrier must deliver original bills and copies 7832
- Carriers issuing fictitious 11459
- Defined 7828
- Duplicates to be marked "duplicate" 11462
- Effect on rights of carrier 7831
- Erroneous bills, good faith 11461
- Issuance by railroad station-agents 6611, 6612
- Negotiable 7829
- Requirements of notice of injury of livestock, void when 6550
- Selling, etc., of property stored . . 11463
- Warehousemen, issuing fictitious . 11460

BIOLOGICAL STATION

- Of state university 870, 871

GENERAL INDEX.

BIRDS

- Destruction of nests or eggs prohibited..... 3724
- Song-birds, killing prohibited.... 3723

BIRTH

- Fraudulent pretenses concerning..... 10934, 10935

BIRTHS AND DEATHS

- Index to register..... 4799
- Registration of—See Vital Statistics, Bureau of.....2515- 2539

BISHOP

- See Corporations.....6459- 6461

BITTER ROOT

- State flower..... 530

BLACK BASS

- Game fish..... 3681

BLACKLEAF PRESERVE

- Creation..... 3773
- Penalty for violation of act..... 3774

BLACKLISTING

- Discharge, reason to be given.... 3093
- Misdemeanor..... 11219
- Prohibition against..... 3093

BLACKMAIL

- Acts constituting..... 11397

BLAINE COUNTY

- Boundaries and county seat..... 4307

BLANKS

- See Negotiable Instruments Law..... 8421, 8442
- Papers issued by justice not to contain..... 9712

BLIND

- See Deaf and Blind, Montana School for.....1456- 1472

BLUE GRASS

- Pounds in bushel..... 4226

BLUE SKY LAWS

- See Investment Companies...4026- 4055

BOARD OF COUNTY COMMISSIONERS—See Counties

BOARD OF EXAMINERS—See Examiners, State Board of

BOARD OF HEALTH

- See Health, State Board of
- Bonds for erection of building for—See Bonds.....5590- 5605

BOARD OF PARDONS

- See Pardons.....12247-12266
- See also Sentence

BOARD OF STATE PRISON COMMISSIONERS

- See State Prison.....12434-12465

BOARDING-HOUSES

- Compulsory, forbidden..... 11223
- Lien on baggage.....7675, 7676
- Penalty for defrauding.....7684, 11579
- Possession of adulterated foods
 - prima facie evidence..... 11247
 - service of, by, regulation of... 11245
- Serving adulterated goods, notice..... 11245, 11246
- Use of oleomargarine, posting notice..... 11249

BOARDS

- For complete list of all state boards, commissioners and departments, see State Boards, Commissions and Departments

BOATS

- Claims are lien on, when..... 9603
- Complaint, allegations, when sufficient..... 9618
- Complaint to contain description. 9609
- Continuance not to be granted, when..... 9612
- Discharge on giving bond..... 9613
- Execution against, how issued... 9614
- Liable to attachment for what... 9602
- Liens to attach, when..... 9606
- Limitation of actions..... 9605
- Officer may sell to satisfy execution..... 9615
- Priority of liens..... 9604
- Proceedings against, how commenced..... 9608
- Rafts, liability of, proceedings... 9607
- Right to sue not affected by act.. 9617
- Sale of fractional shares, status of purchaser..... 9616
- Sinking or setting adrift..... 11488
- Summons, how served..... 9610
- who may serve..... 9611
- Who may defend action..... 9612

BODIES

- See Sepulture.....11032-11038

BOILER INSPECTOR

- See also Inspection of Boilers
- Appointment, term and compensation..... 2712
- Consolidation of office..... 3034
- appointment and term of inspector..... 3035

BOILERS

- See Inspection of Boilers..... 2712-2729, 3035-3039
- See Steam Boilers.....11195-11198
- Death from explosions..... 11229
- Fire warden may compel repair.. 5142
- Inspection of engine and tractor.. 4210
- License to operate..... 2720
- Sale of second-hand..... 2729
- penalty..... 2729
- Steamboat, inspection of..... 3870

BOMBS

- See also Explosives.....11282, 11283
- Manufacture and sale for wrongful use a felony..... 11281

GENERAL INDEX.

BONA FIDE PURCHASER

See also Negotiable Instruments Law	8433, 8434
Defeasance in conditions cannot be shown against, without notice	8250
Grant, how far conclusive against not recorded does not affect, when	6868
Implied trust not to prejudice rights	6935
Not affected by conveyance, when	6786
Omitted trust in conveyance, grant in favor of, absolute	6943
Resulting trust cannot prejudice rights of	6795
Rights affected by surrender of property	6786
as against unrecorded instruments	8245
under recorded instruments	6935
Specific performance not enforceable against, when	6868
Transfer of corporate stock to	8725
	5954

BONDED INDEBTEDNESS

Corporations, procedure to create or increase	5929
---	------

BONDED WAREHOUSES

Storage of intoxicating liquors in, when permitted	11082
--	-------

BONDS

See also Official Bonds for bonds of public officers	
See also Undertakings	
Actions to restrain issuance, time for commencement	9040
Administrators and executors act as undertaking on appeal	9743
Attorney not to become surety, when	8991
Bridge, construction, issuance for	1711
Capitol annex bonds for board of health building architect employment of	5600
plans, compensation, bond, and duties	5601
authorization	5590
bills, how audited and paid	5605
calling and payment, when	5595
capitol building interest and sinking fund	5592
cost of, how paid	5596
coupons	5590
credit of state, how far liable	5598
denomination and terms	5590
disposal of bonds	5591
erection of annex	5600
interest	5590
limitation of expenditure	5603
material, how procured	5603
moneys, how disposed of	5599
state to be reimbursed for interest paid	5593

BONDS (Continued)

Capitol annex bonds for board of health building (continued).	
state treasurer, duties concerning	5594
superintendent of construction, appointment and duties	5602
time for completion of building title of bonds	5604
warrants on interest and sinking funds, when issued	5590
Capitol building bonds architect, duties, bond and compensation	5597
authorization	5565
bills, how audited and paid	5554
board of examiners, powers concerning erection of wings	5569
calling and payment, how	5570
cost of issuance, how paid	5559
coupons	5560
creation of special fund	5554
denomination and terms	5563
disposal of bonds	5554
interest	5555
and sinking fund	5554
liability of state limited	5556
lien of bonds upon	5562
limitation of cost	5566
materials, how procured	5567
moneys, how disbursed	5563
procedure for erection of wings reimbursement of general fund, when	5564
state treasurer, duties concerning	5557
superintendent of construction, appointment and duties	5558
time for completion of work	5566
title of bonds	5568
warrants for interest due to be issued	5554
Capitol building bonds, fourth issue of	5561
amount of	5581
capitol building interest and sinking fund	5583
denominations, term and interest	5581
disposal of	5582
expense of issuance, how paid	5587
issuance to purchase ground for capitol	5581
lien of	5581
lien upon lands	5583
payment of	5586
bonds and interest	5583
reimbursement of state for interest	5584
state treasurer custodian of funds	5585
warrants to pay interest	5588
disposal proceeds of sale	5589
no default in payment of	5588
registry of	5588
Capitol building refunding bonds authorization and terms	5571
bonds to be issued, when	5580

GENERAL INDEX.

BONDS (Continued)

Capitol building refunding bonds (continued)	
calling and payment.....	5576
capitol building interest and sinking fund.....	5573
coupons.....	5571
denomination.....	5571
disposal of bonds.....	5572
interest.....	5571
limitation of liability of state..	5578
money, how applied.....	5579
state, how reimbursed for interest paid.....	5574
state treasurer, duties concerning.....	5575
warrants to pay interest, issuance and registry.....	5577
Chief probation officer.....	12301
City—See Cities and Towns.....	5278- 5288
Commissioners drainage district..	7281
County—See Counties.....	4614- 4639
bridge construction—See Counties.....	4712- 4716
free library.....	4568
high schools	
funding bonds for floating indebtedness.....	1293
procedure on issuance.....	1276
procedure to submit question of issue	
division among several school districts.....	1276
exception.....	1277
limitations.....	1276
tax-levy.....	1276
term of bonds, how fixed..	1276
County officers, list of.....	466, 467
inspection of.....	4744
judge to investigate.....	4744
Cost of, to be allowed officers....	6228
Deposit in lieu of.....	9831
Deputy state officers.....	122
Duty public officers to give notice of sales to state board land commissioners.....	1913
violation of act misdemeanor..	1915
waiver.....	1914
Educational bonds	
authorization.....	5606
coupons.....	5609
denomination and terms.....	5608
disposal of bonds.....	5610
interest.....	5608
investment	
of sinking and interest fund.....	5613, 5614
permanent fund.....	5614
moneys, how applied and expended.....	5611
purpose of expenditure.....	5606
series.....	5607
state board of examiners to issue, when.....	5607
tax-levy for payment of.....	5612
title of bonds.....	5609
Fire districts—See Cities and Towns.....	5150- 5158

BONDS (Continued)

Funding bonds for district schools and high schools for debts incurred before July 1, 1921—	
See Schools, Public.....	1244- 1251
Funding bonds of irrigation districts—See Irrigation Districts.....	7226- 7231
Highway bonds, issuance of.....	1618
Injunction may issue without, when.....	9255
Investment insurance funds in irrigation district bonds.....	6127
Irrigation districts, procedure to constitute legal investments for certain funds—See Irrigation Districts.....	7216- 7225
Justices of the peace.....	8839
Limit on purchase by banks.....	6052
Notice of sales to be given to state land board.....	1913- 1915
Number of signers necessary on petition for bonds schools districts, cities and counties....	1252
qualification of voters.....	1253
scope of act.....	1254
Of	
executors and administrators—	
See Probate Proceedings....	10087-10106
guardians—See Guardianship	
Officers mutual life insurance companies.....	6271
Payment for, on purchase by land board.....	1911
Public officers, furnishing and payment for.....	6236
see also Official Bonds.....	468- 509
Railroads—See Railroads	
School district—See Schools, Public—subtitle bonds	
Special improvement districts, bond of contractor.....	5236
State	
land board to permit redemption, when.....	1916
not required to give, when....	9829
supplies, bids for.....	262
Superintendent of banks.....	6070
Surety bonds of corporations, when acceptable as undertaking.....	9826- 9828
Surety companies may execute, when.....	6207
Taxpayers only to vote at elections for issuance.....	1253
Terminal grain elevator—See Terminal Grain Elevator.....	1583- 1585
Three million dollar treasury certificates, purpose of loan	
appropriation for expense....	5622
appropriation to pay notes and interest.....	5620
authorization of.....	5615
bids.....	5618
board to determine amount to be sold.....	5618
emergency clause.....	5623

GENERAL INDEX.

BONDS (Continued)

Three million dollar treasury certificates, purpose of loan (continued)	
form of note.....	5616
interest	5617
coupons	5616
for 1921, how paid.....	5621
limit on amount sold.....	5618
loan, how negotiated.....	5616
notes, preparation of.....	5619
notes, when dated and payable	5617
payment of notes and interest	
after 1921.....	5621
payment, where made.....	5617
purpose of issue.....	5615
state treasurer to prepare notes	5619
terms of sale.....	5618
War defense bonds	
accounts of council of defense	5635
applications for loans, how made	5626
board of examiners may borrow money	5624
credit of state pledge.....	5631
fees not to be charged by public officers	5633
issuance and term of bonds....	5630
official bonds required of members of council of defense....	5634
penalty for misuse of money...	5627
powers of Montana council of defense	5629
purchase of bonds with state trust funds forbidden.....	5628
purpose	
for which money expended..	5625
of act.....	5637
reports to be made.....	5636
tax-levy to pay.....	5630
war defense fund.....	5632

BOOKS

As evidence	10584
Assessment-book—See Taxation..	
.....	2048-
Copies may be made.....	9771
Corporations, false accounts....	11445
Destroying in public library....	11498
Distributed to public officers, making of.....	136
Entries in, evidence.....	10570
Historical works, etc., evidence..	10584
Inspection, court may order, when	9771
Larceny by public officers.....	10873
Law-books presumed correct.....	10550
Obscene, forbidden.....	11134-11136
Possession by public officers....	460
enforcing delivery.....	461, 462
Production in court.....	9771
State treasurer, open to inspection	184
To be kept by county commissioners	4461

BOOTHES

Election—See Elections.....	692- 697
-----------------------------	----------

BORROWERS

See Loan	7702- 7729
Bank loans	6059, 6060

BORROWING MONEY

From counties—See Counties.	4717- 4722
-----------------------------	------------

BOTTLES AND SYPHONS

Trademarks	4291
------------------	------

BOTTLING WORKS

License	2589
---------------	------

BOTTOMRY AND RESPONDENTIA

Insurance companies may lend money on.....	6136
--	------

BOUNDARIES

Cotermious, owners must maintain	6777
County	
defined—See Counties....	4305- 4368
effect of act.....	4359
included in session laws.....	143
jurisdiction of offenses on....	11708
publication of act in code.....	4361
township and range designations	4360
Extent of boundaries by roads...	6772
Extent of boundaries by water...	6771
Grants by highway, passes what..	6873
Line-trees, ownership of.....	6775
National parks.....	22, 23
Of claims in national forests to be marked	3380- 3382
Of counties—See Counties..	4305- 4360
Right to lateral and subadjacent support	6773
School districts	
change of	1033
record and report of.....	968
State—See Constitution	
Water, boundaries by.....	6771
Ways, boundaries by.....	6772

BOUNTIES

Affidavit to accompany claims....	3409
Amount of.....	3407
Animals subject to.....	3407
Bounty fund	
creation of.....	3414
surplus	3415
Claimant to exhibit skins.....	3408
Claims and certificates	
delivery to board of examiners	3412
endorsement of.....	3411- 3413
filing with livestock commission	3410
County bounties	
amount of.....	2083
bounty inspectors, creation and term	2084
claims for, how presented, affidavit	2085
county bounty fund, creation..	2084
county clerk to provide forms.	2086
county commissioners to make levy, when.....	2082
existing laws not affected.....	2087
petition	
for tax-levy on livestock....	2082
number of signers necessary.	2083
when and to whom presented	2083

GENERAL INDEX.

BOUNTIES (Continued)

County clerk, duties of.....	3409
Coyotes	3407
Creation state bounty fund.....	3414
Inspectors	
duties of.....	3408
examination by.....	3409
issuance of certificates.....	3409
records of.....	3409
requirement of affidavit.....	3409
sheriffs to act as.....	3409
Livestock tax on, to pay—See Taxation	2076- 2087
Mountain lions.....	3407
Penalty for	
false certificates.....	3409
fraudulent claims.....	3417
Perjury and forgery.....	3416
Sheriffs to act as inspectors.....	3409
Tax on livestock for payment of	
—See Taxation.....	2076- 2087
Warrants, issuance and registry..	3413
Wolves	3407

BOWLING-ALLEYS

Closing hour for.....	11190
License	2434

BOX-CARS

See also Railroads	
Cooperage for shipments of grain, etc.	6613- 6619

BOXES

Jury boxes, how prepared—See Juries	8899- 8907
Standard apple—See Apples..	4265- 4272

BOXING-MATCHES

See also Prize-fights	
See County Athletic Commission.	
.....	4551- 4562
Engaging in, forbidden.....	11296
exception	11296

BRAKES

On street-cars, regulation of..	3066, 3067
---------------------------------	------------

BRAN

Pounds in bushel.....	4226
-----------------------	------

BRANDS

Altering, punishment.....	11211
Criminal statutes regulating use of—See Livestock....	11542-11554
Jury may inspect.....	11996
Livestock—See Livestock..	3299, 3300
Record of—See Livestock..	3299- 3308
State timber, penalty for violation	1881

BRANT

Limit on number.....	3703
Open season for.....	3703

BREACH OF PEACE

See Disturbances	
Jurisdiction of actions.....	8842

BREACH OF PROMISE

Damages in discretion of jury...	8685
Jurisdiction of justice courts....	8840
Sittings of court to be private...	8848
Want of chastity as defense.....	5706

BREAD

Loaves, regulation.....	4274
Penalty for violation of act.....	4276
Return or repurchase.....	4275
Weight of.....	4273

BRIBERY

Acts constituting.....	10769
Asking or receiving by executive officers	10824
Boards of trustees.....	10943
Bribe defined	10713
By members of legislature, what constitutes	10841, 10842
City or town councils.....	10943
Convention, members of.....	10764
County commissioners	10943
Defined in election offenses, punishment for	10769
Giving or offering to executive officers	10823
Giving or offering to members of legislature	10838
Judges, jurors and referees, penalty for	10853

Of

board of county commissioners	10943
jurors	10856
members of legislature.....	10849
acts constituting	10850, 10851
school trustees forbidden.....	10862
Punishment of	10769
Receipt	
by members of legislature.....	10839
by judges, jurors and other officers	10854
Signers on nominating petitions..	667
Solicitation by	
judicial officers, penalty.....	10855
members of legislature.....	10840
Solicitation of	
by members of legislature.....	10848
public officers, what constitutes	10843
Telegraphic operators, of.....	11519
Who competent as witnesses....	10863
Witnesses, penalty for bribing...	10896
receiving or offering to.....	10897

BRIDGES

Assessment of	2020
Bond issue for county construction—See Counties	4712
Construction of, across Kootenai river	1803, 1804
Malicious destruction, punishment	11476, 11487
Malicious injury to.....	11464
Public bridges—See Highways....	1703- 1714
Riding or driving faster than a walk	11252
driving cattle over.....	11252

GENERAL INDEX.

BROADWATER COUNTY

Boundaries and county seat..... 4308

BROKERS

See Investment Companies.....
4026- 4055
 See Real Estate Commission, State
4056- 4078
 See Wage-brokers4173- 4182
 False statements by..... 11415

BEUSH

Regulation of burning—See Fires
2763- 2774

BUCKET-SHOPS

Prohibited 11159

BUCKWHEAT

Pounds in bushel..... 4226

BUDGET

Act, how cited..... 294
 Appropriation bills, action on.....298, 302
 Appropriations
 general, include what..... 298
 governmental, include what.... 298
 how made 298
 Contents of 298
 County budgets
 county commissioners to ex-
 amine 224
 district courts excepted..... 230
 emergency expenditures 228
 limitation upon expenditures... 228
 public record 229
 publication of budget..... 226
 contents of notice of..... 226
 state examiner to prepare..... 224
 submission to county commis-
 sioners 224
 tax-levy, how made..... 227
 when and where filed..... 225
 Definition of act..... 294
 Delivery to legislature..... 299
 Divisions of 298
 Information to be furnished.... 302
 Officers to appear on considera-
 tion of 300
 Printing and distribution of.... 303
 Provisions concerning 302
 Request for appropriation..... 295
 blank forms for..... 297
 by whom made..... 296
 Rural school districts..... 1044
 Submission to legislature..... 299
 Supplementary appropriation bill. 298
 Supplementary appropriations.... 301
 Unexpended appropriations to re-
 vert 304

BUFFALO

Game animal 3681
 Killing prohibited 3719

BUILDERS AND CONTRACTORS

Floors and scaffolds, safe con-
 struction of2672- 2676
 inspection of 2676
 Licenses 2441

BUILDING AND LOAN ASSOCIA- TIONS

See Corporations6355- 6374
 State examiners' fund..... 221
 penalty for failure to pay..... 222

BUILDINGS

See also Arson.....11338-11342
 See also Floors and Scaffolds.....
 2672- 2676
 Abatement of buildings constitut-
 ing nuisances, when—See In-
 toxicating Liquors.....11123-11133
 Authority to break into, where
 games played 11168
 Burning—See Burning
 Destruction by explosives, punish-
 ment 11477
 Fire-escapes—See Fire-escapes....
 2779- 2785
 Public, defacing 11506
 regulation of doors..... 11266
 Punishment for burning, when not
 arson 11476
 Removal by state fire marshal,
 when 2753
 Vacant, destroying or defacing... 11481

BULK SALES

Exceptions from act..... 8611
 Penalty for false statement..... 8609
 Sales without statement void,
 when 8608
 Seller to furnish list of creditors. 8607
 affidavit, form of..... 8607
 What constitutes 8610

BULLETIN-BOARDS

Railroads to install in stations—
 See Railroads6584, 6585

BULL-FIGHTS

Prohibited 11514

BULLION

Counterfeiting 11362

BULLS

License of keeper..... 2437
 Running at large—See Livestock.
 3403- 3406

BURDEN—See Benefits

BURDEN OF PROOF

Actions for violation prohibition
 act 11079
 Shifts in murder trials, when... 11980
 To show want of consideration... 7513
 Who must assume..... 10616

BUREAU OF CHILD AND ANI- MAL PROTECTION

See Child and Animal Protection,
 Bureau of336- 349
 See Protection of Dependent and
 Neglected Children ...10465-10479

BURGLARIOUS INSTRUMENTS

Possession prohibited 11353

GENERAL INDEX.

BURGLARY

Defined	11346
Degrees of	11347
Enter defined	11349
Jurisdiction when property brought into another county.....	11712
Night-time defined	11350
Possession of burglarious instru- ments	11353
Punishment	11348
Verdict, value of property.....	12026
With explosives defined.....	11351
punishment	11352

BURIAL

See also Cities and Towns....	5168- 5174
See also Vital Statistics, Bureau of	2515- 2539
Death certificates	2528
Deceased soldiers and sailors..	4536- 4541
Offenses concerning—See Sepul- ture	11032-11038
Permits for	2526- 2528
Right as easement.....	6749
as servitude	6750
Sexton, duties of.....	2531

BURNING

See also Fires	
Arson—See Arson	11337-11345
Buildings, punishment when not arson	11476
Grain, penalty for.....	11476
Insured property	11426
false claims for loss.....	11427
Rafts, prohibited	11488

BUSHEL

Half bushel, standard.....	4221
divisions of	4222
Number of pounds constituting...	4226
Weight of different commodities.	4226

BUSINESS

Days defined	10
Good-will defined	6813

BUSINESS HOURS

Defined in railroad act.....	6580
------------------------------	------

BUTCHERS

See also Meat—Slaughter-houses	
License of, to sell meat.....	3285, 3348
Sale of diseased animals forbidden	11243
To exhibit hides.....	3346, 3347

BUTTER AND CHEESE

See also Dairies and Dairy Prod- ucts	
Coloring matter, use in.....	2627
Factories, books to be open.....	2621
Imitation butter.....	2622
Imitation or filled cheese.....	2626
Maker's name to appear on pack- age	3571
Mixing other fats with.....	2623
Net weight to appear on package	3571
Oleomargarine, regulation of.....	2622, 11248, 11249
Patent butter.....	2625

BUTTER AND CHEESE (Contin- ued)

Regulation by pure food and drug act	2581
Renovated and storage butter to be marked.....	2624
Standard measure.....	3571

BUYERS—See Sales

BY-LAWS

Banks	6029
Corporations—See Corporations..	5930- 5932

CABOOSES

Use regulated.....	6577
--------------------	------

CAFES

License	2589
---------------	------

CALENDAR

Clerks to enter causes, how.....	9330
Criminal actions, clerk to prepare	11933
How causes set for trial.....	11940
Order of disposal of issues.....	11934

CALVES

Selling when killed under four weeks	2584
---	------

CAMPAIGN BOOK

Preparation of.....	675
how allotted and paid for.....	676

CAMPAIGN STATEMENTS AND EXPENSES

See Corrupt Practices Act..	10773-10820
-----------------------------	-------------

CAMP-FIRES

Negligent control of.....	11500-11502
---------------------------	-------------

CAMP-MEETINGS

Selling merchandise at, forbidden	11043, 11044
--	--------------

CANADA THISTLES

See Weeds.....	4506- 4513
----------------	------------

CANALS

See Water and Water Rights.7093-	7135
How assessed.....	2021
Malicious injury to.....	11487
Obstructing or taking water from	11467

CANCELLATION

See also Alteration	
Grant does not reconvey.....	6847
Instruments obviously void.....	8734
Instruments in part, when.....	8735
Negotiable instruments—See Ne- gotiable Instruments....	8530- 8532
Unintentional, of negotiable in- strument, effect of.....	8530
discharges, when.....	8526
Wills, how.....	6995
evidence of.....	6996
Written extinction by.....	7570, 7571
Written instruments, when or- dered	8733

CANDIDATE

Word construed under corrupt practices act.....	10775
--	-------

GENERAL INDEX.

CANDIES

Sale, when adulterated, forbidden 11265

CANNERIES

License 2589

CANVASSERS

See Elections.....531- 829

CAPACITY

See also Weights and Measures
Who capable of committing crime 10729

CAPITAL OFFENSES

Not bailable, when..... 12135

CAPITAL STOCK

See Corporations
See also Specific Titles
Banks 6023

CAPITAL ANNEX BONDS FOR BOARD OF HEALTH BUILD- ING

See Bonds.....5590- 5605

CAPITOL BUILDING BONDS

See Bonds.....5554- 5570
Fourth issue of—See Bonds..5581- 5589

CAPITOL, STATE

Management of—See Custodian of
State Capitol310- 319
Salaries of employees.....436- 442

CAPSULE—Jury—See Juries

CARBON BLACK

Wasteful use of natural gas pro-
hibited3550- 3552

CARBON COUNTY

Boundaries and county seat..... 4309

CARCASSES

Disposal, where forbidden..... 11235
Penalty for putting in waters or
streets 2484
Sale of diseased meat forbidden.. 3269
Sale of, without inspection forbid-
den 11243
Skinning animals and leaving near
dwelling 11532

CARD-GAMES

See Gambling.....11159-11179

CARE

Agent to use, towards principal.. 7802
Great care, who must use
borrower 7704
carrier of messages for reward 7845
employee for his own benefit... 7772
Ordinary care, who must use
carrier of property for reward 7821
depository for hire..... 7661
employee for reward..... 7771
gratuitous carrier of persons... 7814
hirer 7733
trustee 7909
voluntary agent..... 7810

CARE (Continued)

Responsibility for injuries from
lack of..... 7579
Skill required of employees..7776, 7777
Slight care, who must use
gratuitous carrier of property.. 7821
gratuitous depository..... 7658
gratuitous employee..... 7768
Utmost care, who must use
carrier of persons for reward.. 7815

CAREY LAND ACT BOARD

Appropriation of water by state.. 1965
Assistant secretary
appointment and duties..... 1960
salary440, 1961
Biennial reports of board..... 1991
Bonds, authority to cancel..... 1964
Carey land act fund..... 1987
Classification of lands..... 1979
Contracts 1967
and bonds..... 1974
defaults on..... 1978
forfeiture 1982
rights of contractor..... 1975
Co-operative reclamation projects. 1977
Creation of..... 1949
Deeds for land..... 1981
Disposal of money..... 1989
Eight-hour day..... 1962
Engineer, state
appointment and term..... 1954
bond and oath..... 1957
duties 1955
duty to examine
lands 1971
mineral and coal lands..... 1956
office 1959
report of.....1955, 1958
salary 1958
Examination of lands..... 1971
Expenses of board and officers...
.1952, 1990
Farm units..... 1992
Fees 1987
Funds1963, 1987
Governor as chairman..... 1953
Hours for labor..... 1962
Liens for deferred payments.... 1982
foreclosure 1983
Limited settlements..... 1988
Meetings 1953
Members, interest in contracts... 1969
Membership 1951
Money, how disposed of..... 1989
Powers concerning
contracts for reclamation..... 1967
irrigation of land..... 1966
rules 1968
Proceeds of sales or leases..... 1989
Reclamation of lands
applications to board..... 1970
approval and notice..... 1972
contractor
charges of..... 1975
delivery of work..... 1976
deposit to cover survey..... 1973
fees of..... 1976
rights of..... 1975
contracts and bonds..... 1974

GENERAL INDEX.

CAREY LAND ACT BOARD (Continued)

Reports of.....	1991
Right	
of eminent domain.....	1985
of way.....	1984
to appropriate water.....	1986
Sale and leases.....	1979
Sale of land in farm units.....	1992
Seal of board.....	1987
Secretary	
appointment and duties.....	1955
assistant to	
appointment and duties.....	1960
bond.....	1960
salary.....	440, 1961
Settlement of reclaimed lands....	1980
State engineer—See subtitle engineer, state	
State, limitation of liability.....	1962
Successors to whom.....	1950
Water, appropriation by state....	1965
Water rights, lien of, foreclosure, redemption.....	1983
price for.....	1976
Withdrawal of lands	
lease of.....	1995
sale of.....	1994
when.....	1993

CARIBOU

Game animal.....	3681
Killing prohibited.....	3719

CARRIAGE

See also Common Carriers....	7846- 7877
See also Freightage.....	7835- 7843
See also Railroads.....	6503- 6599
See also Railroad Commission, Political Code.....	3779- 3847
Carriage of persons	
general duties of carrier.....	7815
rate of speed, delays.....	7819
treatment of passengers, how...	7818
vehicles, duty to provide.....	7816
vehicles not to be overloaded..	7817
Carriage of persons for reward	
degree of skill required.....	7815
vehicles, duty to provide.....	7816
overloading forbidden.....	7817
treatment of passengers.....	7818
rate of speed.....	7819
Carriage of persons without reward	
degree of care required.....	7814
Carriage of property	
carrier may terminate liability, how.....	7827
carrier to obey directions.....	7822
conflict of orders, duty of carrier.....	7823
degree of care required.....	7821
duty to deliver freight.....	7824
duty to deliver, where.....	7825
duty, when freight not delivered to consignee.....	7826
general definitions.....	7820
Carriers of messages—See subtitle messages.....	7811
Contract defined.....	7811

CARRIAGE (Continued)

Damages for breach of obligation	
for delay in delivery.....	8683
to deliver goods.....	8682
to receive goods.....	8681
Freight—See subtitle carriage of property	
Lien for freightage.....	7843
Messages, obligation of carriers of	7844
degree of diligence required...	7845
Obligation of gratuitous carriers.	7812
obligation when carriage begun	7813

CARRIERS

See Carriage	
See also Bills of Lading....	11459-11463
See also Railroad Commission.	3779- 3847
See also Railroads	
Intoxicating liquors, duties concerning transportation—See Intoxicating Liquors...	11058-11061
Penalty for refusal to receive passengers.....	11218
Standing rewards for holdups....	12416
Transportation intoxicating liquors by—See Intoxicating Liquors.....	11048-11133
Transporting diseased cattle under quarantine.....	11539
scabby sheep.....	11536
Use of force in expelling passengers.....	10980

CARROTS

Pounds in bushel.....	4226
-----------------------	------

CARS

Examination of grain cars at destination.....	3592
Stealing rides upon—See Stealing Rides.....	11568-11570
Street, how equipped.....	3061

CARTER COUNTY

Boundaries and county seat.....	4310
---------------------------------	------

CARTMEN

Exemptions.....	9428
-----------------	------

CASCADE COUNTY

Boundaries and county seat.....	4311
---------------------------------	------

CASINGS

See Oil and Gas.....	3547- 3549
----------------------	------------

CATTLE

See also Livestock	
Altering brands.....	11211
Control of scab and other diseases—See Livestock.....	11533-11540
Driving from customary range forbidden.....	11549
Driving over lands of another forbidden, when.....	11225-11228
Slaughtering diseased.....	11243

CATTLE-GUARDS

Railroads must maintain, where..	6540
regulations concerning.....	6553

CAUSA MORTIS

Gifts defined.....	6885
--------------------	------

GENERAL INDEX.

CAUSES OF ACTION

Joinder	9130
Misjoinder, pleadings, amendments	9189
Statement in complaint.	9130

CAUSTIC CHEMICALS

Assaults with.	10979
------------------------	-------

CEMENT

Dealers' license tax—See Taxation	
.	2367- 2380
Producers' license tax—See Taxa-	
tion	2356- 2366

CEMETERIES

Burial regulations—See Vital Sta-	
tistics	2526- 2531
Establishment by county commis-	
sioners	4514
Exemption from taxation.	1998
Offenses concerning—See Sepul-	
ture	11032-11038
Public cemeteries—See Cities and	
Towns	5168- 5174
Regulation by cities and towns. . .	5039

CEMETERY ASSOCIATIONS

See Corporations.	6469- 6502
---------------------------	------------

CENSUS

Basis	
advancement cities.	4969
apportionment house representa-	
tives	44
classification cities.	4960
reduction of cities.	4973
Cities and towns on organization	4961
School census	
copy transmitted to bureau of	
labor and industry.	971
to be made.	971, 1051

CERTAIN

That is which may be made so. . . .	8767
-------------------------------------	------

CERTIFICATE

See also Certificate	
False, by officers of corporation. . .	5942
Fictitious names of partnerships	
.	8019- 8021

Of

acknowledgement—See Ac-	
knowledgements	6905- 6933
authority justices of the peace	6919
marriages—See Marriages.	5716- 5721
probable cause.	12113
proof of execution of instru-	
ment, contents.	6925
statement of special partnership	8027
stock—See Corporations.	5952- 5972

CERTIFICATE OF PROBATE CAUSE

Stay on issuance of.	12113
------------------------------	-------

CERTIFICATES

See also Certificate	
Attendance of jurors.	4937

CERTIFICATES (Continued)

Contents of official certificates of	
copies	
writings	10573, 10574
Dedication of city plats.	4985
Election—See Elections.	531- 829
False making by officers.	10945
Of	
location, evidence of ownership	10575
proof of lost will.	10051
proof of will.	10037, 10038
purchase, evidence of ownership	10575
redemption	9444
sales on execution, issuance. . . .	
.	9439, 9440
contents	9441
Officers of fire department unlaw-	
fully issuing, of exemption. . .	11526
On service of summons of justice	
out of county.	9636
Purchase of state land.	1861- 1869
To	
affidavits, when required.	10642
copies, contents.	10573
foreign judicial record.	10555
foreign records.	10556
record on appeal.	9746
teach school—See Schools, Pub-	
lic	
transcript of foreign justice of	
the peace.	10571
Unlawful issuance of, as money. . .	11525
When deemed complete, for per-	
jury charge.	10886
Witnesses, attendance.	4903
construction of sections.	4904

CERTIFIED CHECKS

How regulated.	6063
------------------------	------

CERTIFIED COPIES

Of	
certain instruments as evidence	6932
certain record, to whom notice	6934

CERTIORARI

See Writ of Review.	9836- 9846
Supreme court may issue, when. . .	8803

CHAIN

Yards in.	4215
-------------------	------

CHALLENGES

Bias	
actual and implied.	11959, 11960
opinion stated does not consti-	
tute, when.	11962
reading newspapers not ground	
for, when.	11962
Causes, how stated.	11962
Civil cases, challenge to juries—	
See Juries.	9343- 9347
Decision of court to be entered on	
trial of.	11967
Defendants cannot sever.	11942
Definition and divisions of.	11941
Denial, how made.	11949
Effect of allowance.	11950
Election—See Elections, subtitle	
challenges	
Entry in minutes.	11962

GENERAL INDEX.

CHALLENGES (Continued)

Exception to.....	11947
allowance, amendment to chal-	
lenge	11948
by-adverse party.....	11963
Exceptions permissible to defend-	
ant	12037
Exemption from jury service not	
cause of.....	11961
For cause, definition and kinds of	11957
General causes of.....	11958
Grand juror acting after, penalty	
for	10942
Grounds of, for implied bias....	11960
How taken.....	11968
Implied bias, grounds of challenge	
for	11960
In justice and police courts in	
criminal cases.....	12317
in civil cases.....	9678
Juror may be examined as wit-	
ness	11965
Kinds of, to individual juror....	11951
Number	
allowed defendant.....	11955
allowed state.....	11956
Panel defined.....	11943
challenge to, defined.....	11944
Particular causes of.....	11959
Peremptory	
defined	11954
number of.....	11955
when and how taken.....	11954-11956
Procedure	
after jury sworn.....	11953
if challenge allowed.....	11950
if disallowed.....	11950
on exceptions to.....	11963
when exceptions overruled....	11948
Rules of evidence on trial of....	11966
State, number allowed.....	11956
To grand jury	
decision upon.....	11812
effect of allowing to juror.....	11815
effect of allowing to panel....	11813
how made and tried.....	11811
to individual grand jurors, cause	
for	11810
who may file.....	11808
To jurors in justice courts.....	9678
To panel, causes for.....	11945
defined	11944
of grand jury, cause for.....	11809
when and how taken.....	11946
To trial juries—See Juries.....	9343-9347
Trial of, how had.....	11949
when facts denied.....	11964
Voters, procedure on challenge..	10792
When taken.....	11952

CHALLENGING VOTER—See Elec-
tions

CHAMBERS

Powers of district judges.....	8867
Powers of district judges in pro-	
bate matters.....	10027
Powers of justices of the supreme	
court	8866
Sheriff to provide, when.....	8856

CHAMPERTY

See Attorneys-at-Law.....8980-8983

CHANGE OF GRADE OF STREETS

See Cities and Towns.....5300-5305

CHANGE OF NAME

Application for, how made.....	9964
Banks—See Banks and Banking	
.....	6031-6034
Certain corporations may petition,	
how	9964
Clerk of district court to report	
changes	9967
Conveyances of real estate on,	
how made	6864
Corporations—See Corporations...	5918-5928
Corporations may petition, when.	9964
Counties—See Counties.....	4427-4440
Duty on conveyance of real es-	
tate	6864
Hearing of application, procedure	9966
Jurisdiction of applications....	9963
Notice of hearing.....	9965
Of religious and benevolent cor-	
porations, how.....	9964
Of water and watercourses	
application for, how made....	9968
clerk of court to report to state	9971
copy of judgment-roll filed....	9971
court to make order.....	9970
notice and publication.....	9969
objections and hearing thereon.	9970
petition, contents of.....	9968
Petition, contents of.....	9964
Procedure	9964

CHANGE OF PLACE OF TRIAL—

See Change of Venue

CHANGE OF VENUE

Application, when and how made.	11918
Awarded, when.....	11916
Change as to other defendants...	11927
Custody of defendant	11923
Grounds for.....	11916
In district court	
costs	
between counties.....	9104
by whom paid.....	9100
of witnesses.....	9103
disqualification of judge.....	9099
in probate proceedings.....	10120-10123
jurisdiction	9100
on agreement of parties.....	9102
papers transmitted.....	9100
proceedings after judgment in	
real actions.....	9101
when it may be made.....	9098
when not to be made.....	9098
In justice and police courts.....	12307, 12308
In justices' courts	
affidavit, contents of.....	9620, 9621
jurisdiction	9624
not more than once.....	9621
proceedings after change.....	9623
to what court transferred.....	9622
when change may be made....	9620

GENERAL INDEX.

CHANGE OF VENUE (Continued)

Not to be granted, when.....	11921
One change only allowed.....	11919
Order	
as notice to witnesses.....	11925
of court or judge.....	11919
of removal, how entered.....	11922
Penalty for failure of duty by clerk.....	11926
Petition for, contents of.....	11916
how supported.....	11917
Records to be transmitted by clerk.....	11924
Removal allowed before new trial.....	11921
State may apply, when, procedure.....	11920
Transmission of pleadings.....	11924
Trial after change.....	11924
When granted in justice and police courts.....	12307

CHAPLAIN

Of soldiers' home, appointment and duties.....	1546
--	------

CHARACTER EVIDENCE

When admissible.....	10670
----------------------	-------

CHARGE

Excessive by railroads, penalty..	11401
To grand jury, contents of..	11818-11832
To jury, how and when given	9349, 11969

CHARGES

County	
audit of.....	4951
enumerated.....	4952
Public warehousemen, regulation of.....	3579

CHARITIES

See Corporations.....	6453-6468
Bequests to, limitations on.....	7015

CHARITIES AND REFORMS,

BOARD OF

Creation and purpose.....	325
Duties.....	329-331
Expenses.....	335
Meetings.....	327
Membership and term.....	326
Officers.....	328
Powers.....	332
Prohibitions.....	334
Reports.....	333
Vacancies.....	326

CHARTER PARTY

Defined.....	7755
--------------	------

CHASTITY

Want of, releases from promise of marriage.....	5706
---	------

CHATTEL INTERESTS

Defined.....	6727
--------------	------

CHATTEL MORTGAGES

See Mortgages.....	8275-8291
Penalty for selling or moving property.....	11416
Possession of range stock under mortgage, how acquired..	9297, 9298

CHATTEL MORTGAGES (Continued)

Railroad property, recording of..	6535
duration of lien.....	6535
satisfaction of.....	6536
Transfer on creation new county.	4402

CHATELS REAL

Defined.....	6727
--------------	------

CHAUFFEUR'S LICENSE

See Motor Vehicles.....	1755-1763
-------------------------	-----------

CHEATS

Assaying, interference with.....	11420
Confidence games.....	11411
Consignees, false statements by..	11415
False pedigrees of animals.....	11417
False statements to obtain credit	11408
Husband or wife selling under false representations.....	11413
Mock auctions.....	11414
Removal of mortgaged property.	11416
Selling	
animals with false pedigree...	11418
land twice.....	11412
mines under false pretenses...	11419

CHECKS

See Negotiable Instruments Law.....	8592-8596
Certified checks, regulation of...	6063
Liability of banks for forgery or raised checks.....	6093
Liability of banks for nonpayment through error.....	6094
Making, passing, or uttering fictitious checks.....	11361
issuing as money.....	11525
Railroads to affix to baggage...	6557
Uttering fraudulent checks or drafts, larceny.....	11369
evidence.....	11369

CHEESE

See also Dairies and Dairy Products	
Imitation or filled.....	2626
Imitations to be labeled.....	11248
printed notice.....	11249
Skim cheese, regulation of sale..	2581
Standard measure.....	3571

CHEESE FACTORIES

Duty to register location.....	3569
Licensed by livestock sanitary board.....	3282

CHEMICALS

Caustic, assault with.....	10979
----------------------------	-------

CHEMIST

See also Gasoline and Oils...	4200-4208
Exemptions.....	9428
Of state board of health.....	2593
State chemist to inspect foods...	11247

CHIEF JUSTICE

Election and term.....	8790
Presides over court.....	8799

CHIEF OF POLICE

See Cities and Towns	
----------------------	--

GENERAL INDEX.

CHILD AND ANIMAL PROTECTION, BUREAU OF

Application to, for admission females to reformatory institutions	12547
Creation and purpose.....	336
Duties concerning juvenile delinquents—See Juvenile Delinquents	12275-12301
Prosecutions for violation of child labor laws.....	3099
Secretary	
appointment and salary.....	337
clerk to, appointment and salary	345
deputies, appointment and salary	340
duties	348
expenses of.....	347
investigations and arrests.....	349
office of.....	338
power to discharge clerk.....	346
reports of.....	339
salary of department.....	440
Special deputy humane officer	
appointment	341
duties	342
powers	343
salary	344

CHILD LABOR

Age certificates, when issued....	3098
Employment children during school term—See Schools, Public	1135- 1139
Employment under 16	
enforcement of act.....	3099
liability of parent or guardian.	3096
mines, employment in.....	3101
penalty for.....	3102
record of, under sixteen.....	3097
when forbidden.....	3095
Penalty for parent or guardian....	3103
Penalty for violation of act.3100-	3104

CHILD WELFARE DIVISION, STATE BOARD OF HEALTH

See Health, State Board of..2503- 2510

CHILDREN

See also Illegitimate Children—	
See also Posthumous Children	
See also Infants	
See also Minors	
See also Schools, Public	
Abandonment and nonsupport—	
See Wife and Children..11017-11022	
Adoption of—See Adoption..5856, 5857	
After-born	
from what part of estate paid.	7010
rights of succession.....	7008
take under will, when.....	7038
Attendance at part-time schools—	
See Schools, Public.....1141-	1156
Bastards—See Bastardy, Proceedings in.....	12267-12274
Born before wedlock, how legitimized	5852
Cannot be witnesses, when.....	10535
Capable of committing crime, when	10729

CHILDREN (Continued)

Control of juvenile delinquents—	
See Juvenile Delinquents....	12275-12301
Correction by persons authorized.	10980
Cruelty to, penalty for.....	11022
Custody	
and control, rights generally—	
See Parent and Child....5830-	5867
in divorce proceedings.....	5770
on annulling marriage.....	5732
Desertion or abandonment of, penalty for.....	11020
Disposing of, for mendicant occupations	11021
Duty to support parents, when....	5853- 5855
Education of, liability of parents for	5790
Enticing away, jurisdiction.....	11710
Fare for, on trains.....	6586
Fraudulent pretenses relative to birth of.....	10934
Guardianship of—See Guardian and Ward.....5868-	5889
Kidnaping	10970
Legitimacy	
how affected by divorce.....	5775
when born in wedlock.....	5830
when born out of wedlock.....	5831
Lewd acts upon, penalty for.....	11005
Minors, who are.....	5673
Order of inheritance by—See Succession	7071- 7092
Orders respecting custody in divorce cases.....	5770
Penalty for improper training of.	12293
Posthumous, considered living, when	7087
Posthumous, defeats future interest, when.....	6716
Protection of dependent—See Protection of Dependent and Neglected Children.....	10465
Right of action for injury from sale of intoxicating liquor... ..	11065
Rights of succession of after-born children	7008- 7010
Rights on annulling of marriage..	5731
Substituting one for another.....	10935
Support	
by estates.....10144-	10150
by sole trader.....	9989
of, on divorce of parents—See Divorce	5768- 5776
Unborn, status of.....	5675
Use of firearms by, prohibited....	11565
liability of parent or guardian.	11566

CHIMNEYS

Fire warden may compel repair..	5142
---------------------------------	------

CHINESE

Marriage with whites void.....	5701
--------------------------------	------

CHINESE PHEASANT

Killing forbidden.....	3700
------------------------	------

GENERAL INDEX.

CHIROPRACTIC

Chiropractic examiners	
admissions from other states..	3152
appointment and term.....	3139
compensation	3150
designation of.....	3138
examinations, scope of.....	3143
fees and mileage.....	3150
organization and meetings....	3140
powers and duties.....	3140
secretary, appointment and powers	3140
treasurer	
bond of.....	3150
dismissal of.....	3151
Construction and limitations of act	3154
Death and birth certificates.....	3145
Definition of.....	3144
Duty of practitioners.....	3145
Fees, disposal of.....	3150
License	
application for.....	3142
cancellation of.....	3147
fees for.....	3142
fraud in procuring.....	3147
members of board.....	3140
persons licensed in other states practicing without, unlawful...	3152
recording	3141
reinstatement	3148
renewal fee.....	3147
revocation, fee.....	3149
revocation for failure to record to whom granted.....	3147
when issued without examination	3148
Penalty for violation of act.....	3141
Practitioners, rights and limitations	3153
Rights of practitioners.....	3146
Secretary—See subtitle chiropractic examiners	
Temporary permits.....	3146
Treasurer, bond of.....	3141

CHIROPRACTIC EXAMINERS, BOARD OF

See Chiropractic.....3138- 3154

CHOSES IN ACTION

See Things in Action.....	6804, 6805
Assignment, effect on defense....	9068
Attorneys must not buy, when...	8980
Of deceased persons, how sold...	10202
Value in estimating damages...	8702

CHOUTEAU COUNTY

Boundaries and county seat....	4312
Change in boundaries of—See Counties	4362- 4368

CHRISTMAS DAY

Holiday	10
School not to be held on.....	1062

CHURCHES

See Corporations.....	6453- 6468
Defacing	11506
Exemption from taxation, when..	1998
Fees for filing articles.....	146

CHURCHES (Continued)

Inspection of.....	2453
Regulation of doors.....	11266
Right to seat in as easement....	6749
as servitude.....	6750

CIGARETTES

License to sell.....	2435
Sale to minors forbidden.....	11047
Use of, by children, delinquency.	12275

CIRCULARS

Advertising cure of certain diseases prohibited.....	11145
punishment	11147

CIRCULATING LIBRARIES

Composition of.....	1573
Control of.....	1571
Creation	1570
Purchase of books.....	1572
Rules	1574
Use of, security for books.....	1575

CITATION

For revocation of letters of administration	10084
How issued.....	8966
In	
disbarment proceedings.....	8966
probate proceedings.....	10359-10363
will contests.....	10043
Of revised codes of 1921, method To	5541
executors and administrators on suspension.....	10125
to account.....	10289-10291
to give additional bonds....	10098
persons concealing property of estate	10141, 10455

CITIES AND TOWNS

Abandonment of—See subtitle vacation	5306- 5309
Accounts and demands against—See subtitle claims.....	5078- 5083
Actions against, for damages by mobs or riots, time for commencement	9034
Actions against, for salaries of police department, time for commencement	9036
recovery, when had.....	9037
Additions to	
See also subtitle plats....	4980- 4993
adjacent territory	
how annexed.....	4976
procedure to extend authority over	4978
annexation to adjacent city, election on.....	4979
council to control.....	4977
plat, approval of.....	4977
Aldermen	
election and term.....	5003
eligibility and qualifications..	
.....	5007, 5008
salary	5019
term	
how decided.....	5005
when to begin.....	5006

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Annual appropriation ordinance..	5218
Assessments	
actions to recover.....	5252
mistake, effect of.....	5253
payment under protest.....	5252
Auctioneers, designation of place of business.....	4153
Automobiles, regulation of..	5041, 5042
Ayes and noes, calling when necessary.....	5054
Band concerts	
establishment.....	5047
local bands to be used.....	5047
payment for.....	5047
tax levy for.....	5048
what cities may provide.....	5047
where given.....	5047
Baths	
cost, how paid.....	5045
establishment of.....	5045
maintenance and regulation...	5046
Bequests, power to receive...	5043, 5044
Bonds	
ballots and voting.....	5279
election on issuance.....	5279
form and terms of sale.....	5281
funding indebtedness	
funding bonds, issuance....	5285
procedure.....	5286
redemption.....	5287
notice.....	5279
of sale.....	5280
number of signers necessary on petition.....	1252
official bonds	
how given.....	5013, 5017
required from city officers...	5016
place of payment.....	5283
proceeds, disposal of.....	5282
qualification of voters.....	1254
redemption of.....	5284
refunding bonds, when and how issued.....	5288
regulation of sale.....	5281
scope of act.....	1254
submission of question.....	5278
tax for interest and sinking fund.....	5283
Books and records kept by clerk..	5033
Bribery of councilmen forbidden	10943
Bridges, maintenance of, when..	1709
See also Highways.....	1703-1714
Carrying concealed weapons in...	11302
Cash basis, operation on.....	5079
Cemeteries	
control of.....	5172, 5173
defined.....	5169
how acquired.....	5171
how laid out and dedicated....	5170
register must be kept.....	5174
removal of bodies.....	5168
rules and regulations.....	5173
title to, vesting.....	5168
Census, authority to take.....	5039
Change of grade of streets	
appeals, how taken.....	5303
appraisement of damages.....	5301
costs, how taxed.....	5305

CITIES AND TOWNS (Continued)

Change of grade of streets (continued)	
damage to be paid for.....	5300
issues.....	5304
report of appraisers.....	5302
Chief of police	
duties.....	5037
salary.....	5024
in first class cities.....	5107
City and town councils	
ayes and noes, when called....	5054
duty to	
certify election wards.....	547
establish free employment offices.....	3636
prepare map of wards.....	549
expulsion of members.....	5053
inspection and measurement of gas and electricity.....	5040
journal.....	5053
majority elects.....	5054
ordinances—See subtitle ordinances.....	5054-5068
powers generally concerning	
amusement enterprises.....	5039
arrests of those charged with crime.....	5039
auctioneers, regulation of...	4153
basement entrances.....	5039
blacksmith shops.....	5039
board of health.....	5039
boilers.....	5039
bond issues.....	5039
boxing-matches.....	5039
cabs and carriages.....	5039
census.....	5039
chimney and flues.....	5039
cisterns and sewers.....	5039
city and town printing.....	5039
concealed weapons.....	5039
construction of public works	5039
contracts.....	5039
cruelty to animals.....	5039
dance houses.....	5039
disturbances of public peace.	5039
dogs.....	5039
eminent domain.....	5039
explosives.....	5039
fences.....	5039
fines and penalties.....	5039
fire limits.....	5039
firearms.....	5039
fire-escapes.....	5039
fireworks.....	5039
flagman at street crossings..	5039
franchises.....	5074
fraudulent practices.....	5039
hats and bonnets in public places.....	5039
horse-racing.....	5039
improvement districts.....	5039
impounding livestock.....	5039
incumbering streets.....	5039
inspection of lumber.....	5039
inspection of meat and dairy products.....	5039
irrigation ditches.....	5039
isolation hospitals.....	5039

GENERAL INDEX.

CITIES AND TOWNS (Continued)

City and town councils (continued)	
powers generally concerning (continued)	
jails	5039
junk-shops	5039
licenses	5039
livery-stables	5039
markets and market-houses..	5039
nuisances	5039
numbering of houses.....	5039
obscenities	5039
opium	5039
ordinances, power to make..	5039
party walls.....	5039
pawnbrokers'	5039
pesthouses	5039
planing-mills	5039
poisons	5039
poles and signs.....	5039
poll-tax	5039
public grounds.....	5039
railroad	
crossings	5039
tracks	5039
regulation of	
speed of engines.....	5039
traffic	5039
repair of dangerous buildings	5039
reports from officers.....	5039
riding on sidewalks.....	5039
right-of-way for railroads...	5039
running at large of animals..	5039
sale of municipal property...	5039
sanitation	5039
sidewalk repairs.....	5039
skating and coasting.....	5039
slaughter-houses	5039
soap factories.....	5039
street	
grades, establishment of...	5039
sprinkling	5039
tanneries	5039
taxes, collection of.....	5039
toy pistols	5039
tree planting and protection	5039
use of	
county jails.....	5039
streets for mains.....	5039
vagrancy	5039
water	
and watercourses.....	5039
supply	5039
indebtedness to procure.	5039
weights and measures.....	5039
of commodities	5039
workhouses	5039
quorum	5052
rules and regulations.....	5053
special privileges, grant forbidden	5074
City attorney	
duties	5038
qualifications	5038
removal of.....	5038
salary	5023, 5038
term of office.....	5038

CITIES AND TOWNS (Continued)

City clerk	
duties	5033
as to elections.....	679
report of fire department.....	5125
salary	5026
City treasurer	
collection of special assessments	
and taxes by.....	5251
deposit of money by.....	5034- 5036
duties	5034- 5036
registry and payment of warrants	5034- 5036
salary	5022
Civil service	
See subtitle commission form of government	5366- 5399
See subtitle commission-manager plan of government.....	5400- 5520
Claims	
allowance and payment.....	5079
cash basis, operation on.....	5079
for injuries from defective streets	5080
presentation of.....	5078
when barred.....	5078
Classification of, basis for..	4959, 4960
Classification, change of	
advancement, proceedings for..	4969
census, basis for.....	4969
new officers, election of.....	4971
ordinances in force.....	4972
reduction, proceedings for....	4973
census, basis for.....	4973
resolution declaring.....	4970
Collection special assessments, how made.....	5251
Commission form of government	
abandonment of plan, procedure	5397
election on.....	5397
petition for.....	5398
adoption of plan	
ballots, form of.....	5369
by whom.....	5366
election, proclamation of....	5368
order for election.....	5367
petition for submission to election	5367
resubmission of question, when	5370
result of election, certificate.	5370
special election of officers	
calling and notice.....	5371
conduct of.....	5372
appropriations, revision by council	5392
bonds of officers.....	5377
bribery, penalty for.....	5379
civil service commissioners	
appointment and duties.....	5390
examinations by.....	5390
council	
beginning of term.....	5375
election and term.....	5376
examination of accounts.....	5391
meetings of.....	5387
number of.....	5374
office, location of.....	5386
powers of.....	5383

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Commission form of government (continued)	
council (continued)	
publication of reports.....	5391
quorum	5381
recall of.....	5394
revision of appropriations....	5392
salaries	5386
term decided by lot.....	5376
vacancies in.....	5374
vice-president of.....	5387
definition of terms.....	5393
departments of government enumerated	5383
effect of act on existing laws..	5399
elections	
primary nominating elections	5377
regular election of officers...	5376
special	
of officers on organization..	5371
on questions of organization	
.....5367-	5370
examinations by civil service	
commission	5390
franchises, how granted.....	5388
submission to electors, when	5388
government of city.....	5380
laws applicable to.....	5373
mayor	
designation	5374
election and term.....5375,	5376
nomination of.....	5377
ordinances, signing of.....	5382
powers and duties.....	5382
recall of.....	5394
right to vote.....	5380
salary	5386
supervisory powers of.....	5384
vacancy in office of, how filled	5374
meetings of council.....	5387
nomination of candidates for office	5377
oath of officers.....	5377
officers	
civil service applicable to,	
when	5390
compensation of.....	5385
discontinuance of.....	5385
election by council.....	5384
enumeration of.....5374,	5384
interest in contracts prohibited	5389
passes, receiving forbidden..	5389
removal of.....	5384
restrictions on.....	5389
ordinances and resolutions	
adoption of.....	5388
applicable, when.....	5373
appropriation ordinances....	5388
effective, when.....	5396
granting franchises.....	5388
submission	
by electors, procedure.....	5395
to electors.....5395,	5396
suspension of, how.....	5396
penalty for	
election offenses.....	5379
offenses by officers.....	5389

CITIES AND TOWNS (Continued)

Commission form of government (continued)	
penalty for (continued)	
working for candidates.....	5378
petitions, by whom signed.....	5398
police judge, appointment.....	5384
primary elections.....	5377
public utilities, grant of rights to	5388
quorum	5381
recall of officers, procedure for	5394
removal of officers.....	5384
reports of council, publication of	5391
revision of appropriations....	5392
salary of	
employees	5386
mayor and councilmen.....	5386
suits not affected by.....	5373
territorial limits of cities....	5373
vacancies in elective offices....	5374
veto power abolished.....	5382
voting by council	
ayes and noes to be called..	5381
conduct of.....	5381
who may vote.....	5380
Commission-manager plan of government	
abandonment of plan	
election on.....	5514
petition for.....	5514
procedure	5514
administrative departments defined	5459
adoption of plan	
ballots, form of.....	5403
by whom.....	5400
election, proclamation.....	5402
petition and order.....	5401
resubmission of question,	
when	5404
special election of commissioners	5405
calling and notice.....	5405
conduct of.....	5406
submission of question to electors	5401
appropriation ordinance...5503,	5504
assessments for public improvements	5486
auditing books of account.....	5452
bonds of	
clerks and employees.....	5508
commissioners	5443
bribery, penalty for.....	5428
candidates—See subtitle primary elections	
chief of police.....	5463
city manager	
appointment of.....5410,	5455
approval of contracts by.....	5470
estimates of expenditures,	
submission by.....	5502
examination of departments by	5458
power to fix salaries.....	5507
powers and duties.....	5456
salary	5457

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Commission-manager plan of government (continued)	
city manager (continued)	
suspension of officers by.....	5465
term of.....	5455
civil service	
board	
appeals to, when.....	5478
appointment and organization.....	5471
chief examiner, duties.....	5474
classified and unclassified service defined.....	5472
discharges and reductions in rank.....	5477
discrimination forbidden....	5482
officers to retain positions...	5479
penalties.....	5483
political activities prohibited	5482
positions in classified service	5474
power to subpoena witnesses	5481
probation periods.....	5476
promotions in classified service.....	5475
reduction in rank, how made.	5479
regulations covering appointments.....	5473
salaries	
of board.....	5484
when withheld.....	5480
secretary of board.....	5471
clerk, appointment and duties..	5451
commissioners	
appropriations, powers concerning.....	5503, 5504
audit of books by.....	5452
calling of special election of.	5405
conduct of special election of	5406
contracts with county commissioners.....	5520
election of.....	5411, 5417
publication of expenses of.	5413
establishment of eight-hour day.....	5512
interest in contracts forbidden.....	5413
investigation of financial transactions.....	5454
privilege of witnesses....	5454
meetings.....	5448
nomination of.....	5414
number of.....	5410
oath and bond.....	5443
passes, receiving forbidden..	5413
public utilities, extension of rights to.....	5500, 5501
qualifications of.....	5413
quorum.....	5446
recall of.....	5419
restrictions on.....	5413
salaries.....	5447
fixed by.....	5507
special meetings.....	5448
streets, control of, by.....	5496
term of office.....	5411
vacancies in office of.....	5412
vacation of office, when.....	5448
voting, ayes and noes.....	5446

CITIES AND TOWNS (Continued)

Commission-manager plan of government (continued)	
contracts	
approval of.....	5469
when not affected by act....	5511
with county commissioners for work.....	5520
defined.....	5410
department of finance.....	5466
director of, powers and duties	5466
department of law.....	5462
department of public safety...	5465
police and fire.....	5465
department of public service...	5463
department of public welfare...	5464
health officer controlled by..	5464
departments	
defined.....	5459
directors	
appointment and powers...	5460
removal.....	5460
director of public service	
control of sewer, water, and gas connections.....	5486, 5487
supervisor of plats.....	5489, 5490
eight-hour day.....	5512
elections	
primary nominating.....	5414
ballots and voting.....	5415
candidates' names, arrangement of.....	5416
recall.....	5423-5425
regular.....	5411, 5417
special	
of commissioners.....	5405, 5406
on abandonment of plan...	5514
on organization.....	5401-5404
of communities as municipalities.....	5408
emergency measures defined....	5450
estimates of expenditures.....	5502
existing officers continued.....	5509
expenditures of money, limit on	5469
fire chief, appointment and suspension.....	5465
fire force, composition of.....	5465
fiscal year.....	5502
franchises	
exclusive not to be granted..	5498
renewal of.....	5497
to public utilities.....	5499
gas connection, how compelled.	5486
health officer, powers and duties.	5464
improvements, local and special, how constructed.....	5485
initiation of ordinance.....	5429, 5435
investigation of financial transactions.....	5454
immunity of witnesses.....	5454
laws	
applicable to.....	5407
continued in force.....	5515
manager — See subtitle city manager	
mayor	
duties.....	5444
election of.....	5444
salary.....	5447

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Commission-manager plan of government (continued)	
mayor (continued)	
selection of successor on recall	5445
vacancy in office of, how filled	5444
meetings of commissioners.....	5448
moneys, expenditure on appropriation	5506
municipal plan and advisory boards	5461
municipalities, powers of.....	5409
new municipalities	
name of.....	5518
property rights and indebtedness	5519
nomination of candidates.....	5414
oath and bond of commissioners	5443
official oaths.....	5510
ordinances and resolutions	
amendment of.....	5449
appropriation ordinance.....	5503, 5504
effective, when.....	5436, 5450
emergency measures.....	5436, 5450
defined	5450
subject to referendum.....	5441
enacting clause.....	5449
how passed and amended....	5449
initiation of.....	5429-5435
introduction of.....	5449
proposal by petition, how....	5429
filing and consideration...	5431
signatures and affidavits...	5430
submission to	
clerk	5432
electors	5431
reconsideration of ordinances.	5437
recording and publication....	5453
referendum petitions	
contents	5438
highest vote prevails in case of conflict.....	5440
ordinances subject to.....	5439
suspends action, when.....	5442
subject to be single.....	5449
submission of repealing ordinances	5435
submission to electors, when.	5433
ballot	5435
when deemed repealed.....	5437
when effective.....	5434
organization of municipalities	
effect of.....	5517
election	
of commissioners.....	5408
on	5408
name of new municipal district	5518
penalty for election offenses...	5428
police	
force	5465
judge, appointment and powers	5470
powers of municipalities.....	5409
primary elections	
ballots and voting.....	5415

CITIES AND TOWNS (Continued)

Commission-manager plan of government (continued)	
primary elections (continued)	
candidates	
arrangement of names on ballot	5416
bribery	5428
election offenses, penalty for	5428
how nominated.....	5414
working for, forbidden....	5427
conduct of.....	5415
nominating statement.....	5414
publication of names.....	5414
qualification of electors.....	5415
primary nominating elections..	5414
property, how appropriated....	5495
public utilities	
extension of service subject to referendum.....	5500
property owner's consent, when necessary.....	5501
regulation of use of streets by.	5499
renewal of franchise to.....	5497
publication of election expenses.	5418
publications, official.....	5468
quorum of commissioners.....	5446
recall	
election on.....	5423
ballots and voting.....	5424
majority vote, effect of.....	5425
nomination to fill vacancies..	5424
notification of officer.....	5423
of commissioners, petition for.	5419
petition papers.....	5420
assembling and filing.....	5422
limitation on filing.....	5426
signatures to.....	5421
referendum—See subtitle ordinances and resolutions... 5429-	5442
relief of policemen and firemen.	5465
removal of	
snow and ice.....	5513
weeds and rubbish.....	5513
rental of county buildings.....	5520
repealing and saving clause....	5516
salaries	
city manager.....	5457
commissioners	5447
fixing of.....	5507
mayor	5447
service of process on, how made.	5444
sewer, water, and gas connections	5486
sidewalks, removal of snow and rubbish	5513
sinking fund trustees.....	5467
streets and highways	
control by commissioners....	5491
dedication, acceptance of....	5493
improvement of.....	5492
ordinances to prescribe use by whom	5498
restrictions as to acceptance.	5490
right to use	
how granted.....	5496
ordinance, form and filing..	5496
vacating and change of name.	5494

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Commission-manager plan of government (continued)	
suits, effect on.....	5407
surveys and plats	
of lands offered for sale, effect of recording.....	5487, 5488
supervisor of plats.....	5489
territorial limits.....	5407
transfer of funds.....	5505
unexpended appropriations....	5506
vacancies in commission, how filled.....	5412
voting, how conducted.....	5446
water connections, how compelled.....	5486
working for candidates forbidden.....	5427
Compensation fixed by ordinance.	5018
Competency inhabitants as jurors when city a party.....	8891
Condemnation of property.....	5039
Contracts	
alteration and modification....	5072
contractor, oath of.....	5071
election on granting.....	5075
notice of.....	5076
extra work, allowance for.....	5073
franchise	
election on granting.....	5076
how granted.....	5074
ordinance granting.....	5077
interest of officers in, forbidden.	5069
limitations concerning.....	5070
officers not to be interested in..	5069
submission to taxpayers, when.	5070
Councils—See subtitle city and town councils	
Counsel	
special, employment of.....	5038
Damage for change of grade—See subtitle change of grade.5300—	5305
Damages for injuries, notice of claim of.....	5080
Deposit of moneys in bank...5034—	5036
conditions of.....	5036
Detached territory	
apportionment of indebtedness.	4419
collection of taxes.....	4420
Disincorporation	
disposal of moneys on.....	4975
procedure.....	4974
Distribution of powers.....	4956
Donations and gifts	
authority to take.....	5043
conditions of grant.....	5044
water and watersheds.....	5043
Driving animals on sidewalks....	11504
Duplicate assessment-books	
delivery to clerk.....	5213
furnished by city.....	5212
preparation of.....	5211
Elections	
annual.....	5003
canvass.....	5012
duties of city clerk.....	679
judges and clerks.....	5011
nominations, how declined.....	620
officers to be elected.....	5003

CITIES AND TOWNS (Continued)

Elections (continued)	
precincts conform to wards....	5011
qualification of electors.....	5010
registration of electors.....	5009
tie vote, proceedings on.....	5012
voting machines.....	759
Electricity and gas, inspection of.	5040
Employment offices	
establishment of.....	3636
maintenance by.....	3636
Entry of townsites on public domain—See subtitle townsites.....	5309, 5310
Examination of accounts by state examiner.....	215
laws applicable to.....	216
payment for.....	217
Executive officers defined.....	5029
Exemption of property from taxation.....	1998
Existing cities	
classification.....	4966
old officers to continue.....	4967
reorganization.....	4965
effect of.....	4968
Explosives, storage—See Explosives.....	2786—2815
Extension over adjacent territory.	4978
Ferries and wharves.....	4478
Fire companies	
certificate of establishment....	5143
chief, compensation and duties of.....	5147
exemption	
certificates.....	5145
of members.....	5144
officers and by-laws.....	5144
organization of.....	5143
seal and record of membership.	5146
secretary, oath and duties of...	5146
Fire departments	
annual report of city clerk....	5125
chief engineer appointment, when.....	5140
chief of	
assistant to.....	5114
duties of.....	5114
compensation.....	5110
composition.....	5110
council may	
establish.....	5109
regulate.....	5139
disability fund	
benefits, how allowed.....	5123
creation of.....	5117
embezzlement of.....	5124
establishment of.....	5117
source of.....	5118
tax levy for.....	5119
trustees of.....	5120
duties of.....	5121
use of.....	5122
warrants payable to.....	5128
establishment and regulation of existing companies, effect of act.....	5109
act.....	5115

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Fire departments (continued)	
firemen	
charges against.....	5111
examination and qualifica- tions	5113
hours of work of members.....	5138
licenses payable to city treas- urer for department.....	5127
mayor to suspend firemen, when pensions	5111
exempt and nonassignable...	5136
to retired firemen.....	5132
payment of.....	5133
to widows and orphans.....	5134
reduction of force, how made..	5112
reduction, preference in service	5112
relief associations	
examination of books.....	5130
formation of.....	5129
pensions, to whom paid..	5132-5134
report of secretary and treas- urer	5130
special fund	
creation and use of.....	5135
source and control of.....	5137
treasurer	
duties of.....	5130
receipt of money by.....	5131
report of	
city clerk to insurance com- missioner	5125
insurance companies.....	5126
volunteer companies not af- fected	5116
Fire districts in unincorporated towns	
board of directors, who consti- tute	5149
bonds	
election on issuance.....	5150
form and registration.....	5150
liability on.....	5152
notice of sale.....	5151
payment of.....	5154
interest	5156
penalty for misappropriation	5158
printing of.....	5157
proceeds	5151
redemption	5155
sinking fund.....	5155
submission question of issu- ance	5149
tax to redeem.....	5153
establishment of.....	5148
Fire wardens in unincorporated towns	
appointment and duties.....	5141
inspection of chimneys, etc....	5142
Fiscal year.....	5217
Franchises	
application, submission to tax- payers	5075
how granted.....	5074
notice of election.....	5076
ordinance granting.....	5077
Free employment offices.....	3636

CITIES AND TOWNS (Continued)

Funding indebtedness—See sub- title bonds.....	5285-5288
Gas, regulation of, by ordinance..	5040
Gifts and donations, power to re- ceive	5043, 5044
Highways, claims for injuries from defective.....	5080
Hours of labor of employees.....	3079
Impounded animals	
brands to be ascertained.....	5180
notice	
contents	5176
service, how made.....	5177-5179
to be given to owners.....	5175
provisions of act mandatory...	5182
secretary of livestock commis- sion to find owner.....	5181
serve notice on secretary live- stock commission.....	5178
Improvement districts	
assessment	
area	5238
methods of.....	5238
of railroads.....	5238
to maintain improvements...	5242
to pay costs	
collection of.....	5251
correction of.....	5252
delinquent payments.....	5251
how levied.....	5240
interest on.....	5245
lien on property.....	5247
mistakes not to invalidate	5248
objections, filing and hear- ing	5241
reassessment, when.....	5252
resolution levying.....	5240
notice of passage of.....	5241
terms of.....	5240
authority	
concerning water and gas con- nections	5226a
to create.....	5039
bids for work	
guaranty to accompany.....	5232
opening of.....	5232
proposals for.....	5232
rejection and readvertisement	5232
bond of contractor.....	5236
bonds	
form of.....	5249
registry and payment.....	5249
certification assessments to county clerk.....	5251
claims for damages, when waived	5237
collection of assessments.....	5251
connection with water and gas pipes	5226a
contract	
advertising to relet.....	5234
bond of contractor.....	5236
default, reletting on.....	5235
correction of	
assessments	5252
errors	5267
costs and expenses, part of....	5246

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Improvement districts (continued)	
creation, when ordered.....	5226
curative act.....	5258
damages, award and payment..	5243
definition of terms.....	5255
discontinuance of system, procedure.....	5269
effect of adjournment by council.....	5256
errors in proceedings, effect....	5257
extended district, creation.....	5228
what lots included.....	5228
federal	
land excepted.....	5238
property, assessment.....	5271
for what purpose created.....	5226
front-foot plan of assessment..	5238
grading, owners may perform, when.....	5238
hearings, adjournment of.....	5255
improvements defined.....	5255
incidental expenses defined....	5255
interest on assessments.....	5245
jurisdiction, when acquired....	5230
lien of assessments.....	5247
mistakes not to affect.....	5254
lighting districts	
assessment of costs.....	5265
authority to create.....	5258
bonds and warrants.....	5263
claim for damages by property owner.....	5262
contracts for work and material.....	5261
creation of.....	5259
discontinuance of, procedure	5269
expenses, how paid.....	5263, 5264
federal property excepted....	5271
jurisdiction, when acquired..	5261
lights, maintenance of.....	5266
maintenance	
fund.....	5266
of lights	
assessment for.....	5266
contract for.....	5266
misnomer not to affect.....	5267
objections to proceedings, how made.....	5262
percentage of costs assessable	5258
posts and other materials....	5261
preliminary expense, how paid.....	5264
proportion	
borne by property.....	5260
paid by street railways....	5260
protests.....	5261
repealing clause.....	5270
resolution	
assessing costs.....	5265
creating.....	5261
of intention, notice of passage.....	5261
waiver of damages by property owner.....	5262
maintenance	
fund.....	5242

CITIES AND TOWNS (Continued)

Improvement districts (continued)	
maintenance (continued)	
of improvements, assessment for.....	5242
method of assessment.....	5238
mistakes not to	
affect lien.....	5254
invalidate assessments.....	5248
notice	
of defective proceedings....	5237
to bidders, publication of....	5232
objections, filing and hearing..	5241
owner	
may perform work, when	5233-5238
of property defined.....	5255
parkings, maintenance of.....	5242
payment	
for improvements.....	5238
in bonds or warrants.....	5250
performance of work by owner.....	5233-5238
exemption of costs.....	5233
protest	
action on.....	5229
filing of.....	5229
sanitary sewers.....	5229
tax paid under.....	5253
action to recover.....	5253
publication of notices	
duty of clerk to make.....	5257
how made.....	5255
purposes for which created....	5226
railroads, assessment of.....	5238
reassessment of tax.....	5252
remedies to correct errors.....	5268
resolution creating	
passage of.....	5230
sufficiency of description....	5231
resolution of intention	
exclusion of lots, when.....	5227
form and passage of.....	5227
notice of passage of.....	5227
sufficiency of description....	5231
saving clause.....	5270
sewers	
assessment of property, when	5239
costs, how defrayed.....	5239
establishment of.....	5239
protests.....	5229
public, district, and private..	5239
sidewalks and curbs	
construction without creating district.....	5244
resolution assessing costs....	5244
special assessments, how collected.....	5251
sprinkling districts	
assessment to pay cost.....	5275
how levied.....	5277
change of.....	5274
council may provide for....	5272
creation of.....	5273
ratio of assessment.....	5276
street car rails, paving between	5227
street parkings, care of.....	5242
streets, authority over.....	5225

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Improvement districts (continued)	
taxes—See subtitle assessments	
to pay costs	
validation of certain districts	5257
warrants	
form of	5249
registry and payment	5249
taken at par	5250
water	
and gas connections	5226a
mains, limit of assessment for	5226
wires, placing under ground	5226
Indebtedness	
See also subtitle bonds	
bonded, how created	5278
limitation on power to contract	5039
Initiative and referendum	
See subtitle ordinances	5058-5068
Injuries, claim for damages for	5080
Injuring ornamental improvements within	11497
Inspection and measurement of gas and electricity	5040
Insurance companies to report premiums collected	5126
Judgments	
funding of	5085
how paid	5084
Justices must pay fines to treasurer	12347
Lease of lots, limitations on	6708
Liability for	
damages by mobs and riots	5086
expenses boards of health	2470
Libraries	
appointment of trustees	4998
authority to establish	5049
election on establishment	5050, 5051
library fund	4998
tax to maintain	5049
vote to authorize establishment	5051
License	
of soft-drink manufacturers	2436
taxes, power to levy	5224
Lighting districts—See subtitle improvement districts	5259-5271
Livestock, running at large	3401
penalty for trespass	3402
Lots, how partitioned	9532
Magazines, construction near	2809
Maintenance of pesthouses	11234
Map of wards to be prepared	549
Mayor	
duty concerning	
fire escapes	2783
health and quarantine	5030
investigation of fires	2743
police department	5096
election of	5003
pardons by	5030
powers of	5030
presiding officer	5031
qualifications	5004
remission of fines by	5030
salary of	5019
signature of warrants	5031

CITIES AND TOWNS (Continued)

Mayor (continued)	
term	5003
vote in case of tie	5031
Metropolitan police law—See subtitle police department	
Mining shafts in, protection of	11267
Mobs and riots, liability for	5086
Money, how transferred	5035
Motor vehicles	
authority to regulate	5041
defined	5042
Need not pay costs, when	9810
Nomination of candidates by primary law applicable to	634
Notice of claims for injuries	5080
Oaths	
constitutional	5027
of officers	5013
Officers	
abolishment, when	4999
accountability	5016
appointive officers enumerated	4995
appointment and removal by mayor	5030
cities of	
first class	4995
second class	4996
consolidation of offices, when	5000
duties	
and compensation	
fixed by ordinance, when	5028
how fixed	4995, 4996
when to commence	5014
election of	5003
eligibility	5007
enumeration of	4995
executive defined	5029
mayor, qualifications of	5004
not to be interested in contracts	5069
oaths	5013-5027
official bonds	5013-5017
removal, when	5015
salaries—See subtitle salaries	
change in forbidden, when	5026
how fixed	5018
when fixed by ordinance	5028
security required from	5016
term of office	5003-5006
towns, officers of	4997
trustees of public libraries	4998
vacancy	
how caused	5013
how filled	5015
when duties begin	5014
Ordinances	
annual appropriation	5218
approval or veto by mayor	5030
concerning gambling void	11179
effective, when	5056-5060
how referred to in police courts	12302
initiative and referendum	
action may be brought, when	5058
initiative in cities	5058
petition, form of	5067
proclamation of election	5064
referendum petitions	5061
referendum, when had	5062

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Ordinances (continued)	
initiative and referendum (continued)	
special election, when.....	5063
submission at regular election	5059
ballots and voting.....	5065
qualification of voters....	5066
to what ordinances applicable	5068
ordinance book.....	5056
passage of.....	5056
calling ayes and noes.....	5054
record of.....	5056
single subject.....	5056
style of.....	5055
title	5056
validation of certain ordinances	5057

Organization of

election	
ballots, clerks, and judges...	4962
calling and notice.....	4962
existing cities reorganized.	4965, 4966
maps and census.....	4961
number of inhabitants necessary for.....	4961
officers	
conduct of election.....	4964
first election of.....	4963
who elected.....	4964
procedure	4961

Parks and playgrounds

authority to establish.....	5159
dedication of playgrounds in	
plats	4981
limit on indebtedness.....	5159
park commissioners	
allowance of claims.....	5165
appointment and organization	5161
funds, disbursement.....	5163
general regulations.....	5164
meetings and records....	5161-5164
powers and duties.....	5162
playgrounds	
authority to establish.....	5166
power of council concerning.	5167
power of council not affected..	5160
tax for parks.....	5194
vote on establishment.....	5159

Payment for examination by state

examiner	217
----------------	-----

Plats

abstract of title filed with....	4986
acreage tracts, platting and	
survey	4993, 4994
approval	
of	4987
on additions.....	4977
certificate of dedication.....	4985
contents	4981
donations effective as deed....	4990
drawing paper.....	4988
duplicates	4987
filing and recording.....	4987, 4988
lots not to be sold, when.....	4989
making and recording.....	4980
mortgages and claims, release..	4986
new survey, when ordered....	4991

CITIES AND TOWNS (Continued)

Plats (continued)	
orchards, acreage, and suburban	
tracts, procedure.....	4993
ordinance may prescribe form..	4992
owner may plat, when.....	4993
playgrounds, area dedicated to.	4981
suburban tracts, platting and	
survey	4993, 4994
survey	
how made.....	4982
requirements of.....	4983
surveyor's certificate.....	4984
Platting townsites	
penalty for violation of act...	4994
Plumbers	
apprentices, regulation of.....	5188
board of examiners.....	5185
examination	5185
fees	5188
quorum	5191
license	5183
application for.....	5184
fees for.....	5187
renewal of.....	5187
revocation of.....	5190
without examination.....	5192
license fees, disposal of.....	5189
master or journeyman plumbers'	
license	5186
penalty for violation of act....	5193
Police courts	
city attorney to prosecute....	5094
civil actions in.....	5093
criminal actions in.....	5092
establishment	5087
judge cannot act, when.....	5090
jurisdiction of.....	5088, 5089
preliminary examinations.....	5091
procedure, civil and criminal..	
.....	5092, 5093
when open.....	5087
Police department	
appointment and discharge of	
members	5097
charges against members.....	5099
presentation	5100
trial of.....	5100
chief of police, salary.....	5107
council may regulate.....	5105
establishment	5095
examinations for positions in..	5099
examining board, power to de-	
termine charges.....	5098, 5099
findings to be filed.....	5099
veto by mayor.....	5099
exemptions of members.....	5102
mayor to have charge of.....	5096
powers not abrogated.....	5108
members, not to be employed,	
where	5102
organization of, how regulated	11653
political activities prohibited..	5103
probationary terms.....	5097
qualifications of officers.....	5106
repealing clause.....	5108
solicitation of votes prohibited	5104

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Police department (continued)	
suits by officers, when to be brought	5099
suspension from pay, when	5099
decision final	5099
term of members	5097
to preserve peace at public meetings	11654
vacancies, how filled	5101
Police judge	
compensation of justice of peace acting	5021
salary	5020
Poll-tax	5219- 5223
Pollution by carcasses forbidden	11235
Powers	
as body politic	4955
distribution of	4957
of city councils—See subtitle city and town councils	
to contract indebtedness	5039
under corporate name	4958
President of council	5032
Primary election law applicable to nomination of candidates	634
Protection of water supply—See Public Water Supply	2641
Public library—See subtitle libraries	
Qualification of	
electors	5010
mayor	5004
Quorum, what constitutes	5052
Reduction in classification of, procedure	4973
Refunding bonds, how issued	5288
Registration of electors	5009
Registry of warrants	5083
Reorganization	
classification on	4966
effect of	4968
incorporation of existing cities	4965
old officers to continue	4967
Riots, liability for	5086
Road poll-tax	5219- 5223
Running livestock in	3401
Salaries	
aldermen	5019
attorney	5023
change, when forbidden	5026
chief of police	5024, 5107
clerk	5025
fixed by ordinance, when	5018, 5028
mayor	5019
other officers	5028
police judge	5020
treasurer	5022
Sanitary bonds—See subtitle smoke nuisance	
Security for deposit of moneys	5036
Service of summons on, how	9111
Sewerage system	
approval by board of health	2642, 2648
establishment of	5238
payment for, how	5238

CITIES AND TOWNS (Continued)

Sewerage system (continued)	
protests	5229
submission to taxpayers	5039
Shooting firearms in limits of	11530
Sidewalks and curbs	
See subtitle improvement districts	
how constructed without improvement district	5243
Skating-rinks	5166, 5167
Slaughter-houses, power to provide for inspection	3270
Smoke nuisance	
authority to abate	5289
bonds	
designation and term	5295
issuance of	5289
when and how issued	5292
contracts for abatement	5290
inspection and bond	5291
modifications of	5298
election on issuance of bonds	5293
notice of	5294
registration not required	5299
payment of bonds	5297
petition for abatement	5290
sale of bonds	5296
submission to electors	5292
tax-levy to pay bonds	5297
Special	
counsel, employment, when	5038
improvement districts—See subtitle improvement districts	5225- 5270
privileges, how granted	5074
State may require services as officers of	26
Storage of giant caps and coal oil	2815
Street-lighting, improvement district for	5259- 5271
Streets	
change of grade	
appeals from	5303
appraisal report	5302
appraisal of damages	5301
costs, how taxed	5305
damages to be paid	5300
issues on appeal	5304
discontinuance on petition	5306
notice to be given	5307
use for pole lines, by whom	6645
vacation, see discontinuance, supra	
Street-sprinkling	5272- 5277
Surveys—See subtitle plats	
Swimming-pools	5166, 5167
Taxation	
additional levies	
election on	5196
form of ballot	5198
registration of voters	5199
submission to	
state object	5197
vote	5195
annual	
appropriations	5218

GENERAL INDEX.

CITIES AND TOWNS (Continued)	
Taxation (continued)	
annual (continued)	
tax-levy	5216
tax-rate	5194
assessment-books	
charge for	5208
delivery to city clerk	5213
furnishing by city	5212
preparation of	5211
to be furnished	5208
basis for taxation	5205
city treasurer to collect, when	5216
collection, powers of city treasurer	5214, 5215
county	
assessor, duties concerning	5206
treasurer to collect, when	5214
delinquent tax sales	5214
duplicate assessment-book	5211
equalization	5209
and collection	5203
affidavit of party	5210
fiscal year defined	5217
general municipal tax	5194
in cities exceeding limit of debt	5201
special tax	5202
levy	
by council	5203
for	
firemen's disability fund	5119
public parks	5194
water-works	5039
how made	5204
license tax, power to levy	5224
limitation on	5194
road poll-tax	
duty of city clerk and treasurer	5221
how expended	5222
list of persons liable	5220
who liable for	5219
work on streets	5223
special taxes, levy of	5200
Taxes for special improvement districts, how collected	5251
Taxpayers	
only to vote at elections for bond issues	1253
vote on what questions	5278
Term of aldermen, how decided	5005
Towns	
distribution of powers	4957
fire warden, appointment and duties	5141
justices of peace as police judges	5020
mayor and aldermen, salary	5019
officers of	
designation	4997
duties and compensation	4997
Townsites	
entry for incorporated cities	
adverse claims	
actions on	5322
how settled	5322
assessments, how levied	5317
claim for lands, how asserted	5318

CITIES AND TOWNS (Continued)	
Townsites. (continued)	
entry for incorporated cities (continued)	
council to enter, when	5310
deed to issue, when	5320
deficit in expenses, how collected	5319
delinquencies in application for deed	5323
delinquent lands, sale of	5324
expenses, how paid	5328
filing approved plat	5311
informality not to invalidate mining claims not affected	5321
notice of filing plat	5323
plat	
contents and filing	5313
to show what	5316
redemption of lands	5325
school	
lands, how procured	5330
lots	5327
streets, dedication of	5315
survey	
notice of	5314
to be made	5312
unclaimed lands, disposal of	5326
entry for unincorporated towns	
actions for possession	5344
lis pendens	5344
adverse claim, how asserted	5344
affidavits by claimants	5340
appeal from awards	5364
effect of	5365
assessments	
additional	5341
for expenses	5338
census of inhabitants	5332
clerical work	5351
contest, hearing on	5363
deeds, issuance of	5342
duplicates, when	5354
delinquency in application	5345
delinquent land, sale of	5346
deposit of books, where	5353
district judge	
accounts of	5352
duty to enter	5331
to execute deeds for early entries	5356
estimate of cost	5332
fees of referees	5362
hearing on contests	5363
informalities not to invalidate	5354
judges, duties concerning accounts and money	5352
limitation on actions for recovery	5342
lots	
award and deed	5361
claims for, how made	5360
mining claims not affected	5343
notice of	
entry	5357
filing plats	5345

GENERAL INDEX.

CITIES AND TOWNS (Continued)

Townsites (continued)	
entry for unincorporated towns (continued)	
number of lots which may be entered	5360
petitions	
contents of	5332
for deeds of early entries.	5356
hearing and issuance . . .	5356
plats	
contents of	5334
making and filing	5333
to show what	5337
proof of claims	5359
redemption of land	5347
referee, fees of	5362
school	
lands, how acquired	5355
lots, how conveyed	5349
statement of claims, how presented	5358
streets, dedication	5336
surplus, disposal of	5339
survey	
how made	5333
notice to be given	5335
unoccupied and unclaimed lands	
deed for	5348
sale of	5348
vacancy in office of judge . . .	5350
vacation of, when abandoned, procedure	5308
Traffic regulations in	1742
Transfer of	
records, detached territory . . .	4418
rural improvement districts to.	4602, 4603
Treasurer—See subtitle city treasurer	
Trustees of public libraries	4998
Vacancies	
from failure to qualify	5013
from removal	5013
how filled	5015
Vacation of	
parks and public places	5309
plats in abandoned townsites . .	5308
Verification of pleadings by	9163
Wards	
changes in	5002
division into	5001
election precincts conform to	5011
number of electors	5002
Warrants	
call for payment	5082
registry and rate of interest	5081- 5083
Water	
and gas pipes, connection of . .	5226a
and sewerage, submission of plans to board of health	2648
supply, protection of—See Public Water Supply	2641- 2657
works, submission of proposal . .	5039
Withdrawal from free county libraries	4564

CITIZENS

Defined	32
Qualification of voter	540
Residence of	33
Rights and duties	39, 40
Who are not	37

CITIZENSHIP

Power of governor to restore	12263
Qualification for civil office	410

CITY SUPERINTENDENT OF SCHOOLS

See Schools, Public	981- 984
-------------------------------	----------

CIVICS

Instructions to be given in schools	1079
-------------------------------------	------

CIVIL ACTIONS

See Actions, subtitle civil actions	
Discharge of persons imprisoned on judgment in—See Imprisonment	9875- 9886

CIVIL CODE

Act establishing	5669
Benefit of certain provisions may be waived	8597
County clerk, duties imposed upon	4813a
Divisions of	5669
Effect on actions	8775
Effective, when	8773
"Heretofore" and "hereafter", meaning of	8782
Meaning of words in	8776
Notice defined	8780, 8781
Provisions not applicable to contract of marriage	5708
Provisions similar to existing laws, how construed	8774
Third person includes what	8777
Usage, what constitutes	8778
"Usual" and "customary" denote what	8779
When effective	8773

CIVIL DEATH

Occurs, when	11601
Limitations	11602

CIVIL REMEDIES

Not affected by Penal Code	10715
--------------------------------------	-------

CIVIL RIGHTS

Persons deprived of, cannot contract	7469
Suspension of, by imprisonment, when	11600
limitations	11602

CLAIM AND DELIVERY

Affidavit, contents of	9221
Affidavit to describe property, how	9236
Answer of sureties	9188
Damages on judgment by default, court to ascertain	9239
Defendant may require return of property, how	9229
Description of property to contain what	9236

GENERAL INDEX.

CLAIM AND DELIVERY (Continued)

Exception to sufficiency of sureties, procedure.....	9224
In justice courts.....	9663
judgment, how entered.....	9683
Injury to property, action for, when.....	9226
Judgment in alternative and with damages, when.....	9406
Keeper's fees allowed.....	9233
Officer to advertise property for sale, when.....	9227
Plaintiff may claim personal property, when.....	9220
Proceedings when property is concealed, power of sheriff.....	9232
Property to be returned in good condition, when.....	9225
Qualifications and justification of sureties.....	9231
Reference, when ordered.....	9239
Replevin of liquor forbidden.....	11107
Requisition to sheriff.....	9222
Second taking of property, duty of officer.....	9227
sureties not released by second undertaking.....	9228
Service of papers on defendant..	9223
Sheriff	
may take less amount, when...	9237
to keep property, how.....	9233
to file papers, when.....	9235
Third person may claim property, how.....	9234
plaintiff to indemnify sheriff, how.....	9234
Title in third person as defense..	9238
Undertaking by defendant.....	9229
justification of sureties.....	9230
liability of sheriff.....	9230
when given.....	9229
Undertaking, requirement of....	9223
Verdict to specify what.....	9363
What papers to be served on defendant.....	9223
Writ of execution to require what	9417

CLAIMS

Against

cities, presentation of.....	5078- 5080
counties—See Counties.....	4604- 4613
counties, time for commencing action.....	9035
estate — See Probate Proceedings.....	10170-10194
estates, presentation required..	10180
state	
approval of, by board of examiners.....	239
auditor to draw warrant, when	249
disapproval of.....	240
disposal, when no appropriation.....	241
disqualifications.....	246
presentation to board of examiners.....	238

CLAIMS (Continued)

Against (continued)

state (continued)	
unsettled claims	
meeting for action on.....	243
presentation.....	242
proof and examination....	244
report on.....	245
Attorneys purchasing for purpose of suit prohibited.....	8980
Bounty—See Bounties.....	3407- 3417
Buying by attorneys forbidden...	10939
Penalty for presenting false claims to officers.....	10828
Pending suits not affected.....	10181

CLAIRVOYANTS

See Fortune-tellers.....	11522-11524
--------------------------	-------------

CLASSIFICATION

Cities and towns.....	4959, 4960
Counties.....	4741
County commissioners to designate class.....	4742
Lands for taxation—See Taxation.....	2024- 2031
Property for taxation.....	1999
Public officers.....	50
State lands.....	1843, 1844
Taxable property.....	1999

CLERGYMEN

Exempt from jury duty.....	8893
Privileged communications to....	10536

CLERK CONSOLIDATED BOARDS

Appointment.....	123
Salary of.....	437

CLERK DISTRICT COURT

Absence of judge, power to issue orders.....	10376
Attachments, when not to disclose	455
Bond.....	466
Calendar, preparation of.....	11933
order of disposal of issues on..	11934
Certificates	
construction of section.....	4904
to jurors.....	4937
to witnesses.....	4903
Change of venue, neglect of duty, punishment.....	11926
Copies, fees not chargeable, when.	9832
Deputies, salary.....	4873
Disclosing finding of indictment..	10946
Duties generally.....	4815
Duties in	
drawing jury.....	8899- 8912
entering causes on calendar....	9330
entering judgment.....	9806
when.....	9403
filing abstract of judgment of justices' courts.....	9690
filing complaints.....	9106
investment of moneys on sale in partition.....	9562
issuing citation in election contests.....	10813
issuing summons.....	9107

GENERAL INDEX.

CLERK DISTRICT COURT (Continued)

Duties in (continued)	
keeping	
judgment-book	9407
register of actions.....	9822
seal	8860
making return to writ of certiorari	9839
paying deposits to treasurer.....	9309, 10701
presenting bills of exception to judge	9390
probate proceedings	
certificate of proof of will....	10038
citation, issuance.....	10359, 10360
citation on revocation of letters	10084
filing of testimony in probate matter	10038
may issue orders and notices, when	10376
notice of petition for letters.	10076
signing and recording of letters	10063, 10087
reporting changes of names....	9967
sending summons by mail.....	9120
when attorney convicted of crime	8962
when cause submitted to arbitration	9974
Duties on receipt of verdict.....	12019
Duty	
certify contests, when.....	452
concerning licenses	2410
report fines	1216
Duty on order of change of place of trial	11922
to record information.....	11866
Fees	4918
in	
naturalization	4894
probate proceedings	4919
transfer of actions on creation new counties	4417
Filing of undertaking to keep the peace	11645
Fines, report to superintendent of schools	1216
Indexes to court records.....	4817, 4818
Judgment-roll, duty to file.....	12074
Jury-lists delivered to.....	8898
Jury-lists in new counties....	4422- 4426
Leave to file information, entering on minutes	11627
Marriage licenses, issuance—See Marriage	5711- 5715
May have execution for costs....	9812
May take acknowledgments.....	6906
May take affidavits.....	10639
Minutes of decision on challenge of grand jury.....	11812
Not to disclose filing of information, when	11867
of attachment, when.....	455
Other duties	4816
Power to enter orders in probate proceedings	10376

CLERK DISTRICT COURT (Continued)

Practice of law forbidden....	8869, 8992
Record on appeal, preparation and transmission	12045
Records kept by	4815
Register to be kept by.....	4815
Salary	4867
Statement of witness fees and mileage	4939
Subpoena, issuance of.....	12179
Testimony at coroner's inquest to be filed with.....	12386, 12387
To issue writ of habeas corpus, process, etc.	12378
Witnesses	
certificate of attendance.....	4938
record of attendance.....	4940
to report to.....	4938

CLERK HOUSE OF REPRESENTATIVES

Assistant to, duties of.....	67
Compensation	76
Duties on close of session.....	76
compensation for	76
Officer of house.....	63

CLERK SCHOOL DISTRICT

See Schools, Public	
Duties concerning deaf and blind	1465- 1468

CLERK SUPREME COURT

Accounts and settlement.....	374
Bond	376, 464
Duties	371- 373
Duty in issuing remittitur.....	9753
Election and term.....	370
Fees	372
quarterly report of.....	374
Salary	375, 436
when withheld.....	374
Seal and records, keeper of.....	373
Vacancy, how filled.....	516
When attendant may act as.....	377

CLERKS

See also specific boards, officers, commissions and departments	
Appointment in writing by officers	429
Bond may be required.....	507
Engrossing and enrolling, duties of	72
Oath of office.....	435
Of elections—See Elections....	587- 597
Preferred creditors	8351- 8354
Senate and house.....	62, 63
State board examiners to fix number and compensation....	273- 275

CLIENTS

Attorneys may interview in jail..	8990
-----------------------------------	------

CLOTHING

Exposing infected	11503
-------------------------	-------

CLOUDS ON TITLE

See Quietting Title.....	9479- 9514
--------------------------	------------

CLOVER

Pounds in bushel.....	4226
-----------------------	------

GENERAL INDEX.

CLUBS

Incorporation of—See Corporations.....6453- 6458

COAL

Bushels in a ton..... 4226
 Coal mines' and dealers' license tax—See Taxation.....2327- 2343
 Deposit of slack in streams..11276, 11277
 Duty to give full weight of..... 2336
 Full weight by ton.....11431
 Full weight to be given..... 2336
 Leases
 on royalty basis..... 1846
 on state lands.....1882, 1890
 License tax on producers and dealers—See Taxation...2316- 2343
 Pounds in bushel..... 4226
 Regulation of industry—See Mines and Mining.....3447- 3546
 Reservation of rights by state... 1852

COAL DEALERS

License tax on—See Taxation... 2327- 2343

COAL MINE INSPECTORS

See also Mines and Mining..3448- 3478
 Appointment 3035
 Appointment board of examiners. 3467
 Compensation 3448
 Consolidation of office..... 3034
 appointment and term of inspectors..... 3035
 Procedure to remove..... 3458
 Term 3448

COAL MINES

Depositing slack in streams forbidden11276, 11277

COAL MINES' LICENSE TAX

See Taxation2316- 2326

COAL MINING

See Mines and Mining.....3447- 3546

COAL OIL

Inspection of—See Gasoline and Oils.....4193- 4208

COCA LEAVES

See Opium3189- 3202

COCK-FIGHTS

Prohibited 11514

CODE COMMISSIONER

See also Codes
 Annotations by 5537
 Appointment, qualifications and duties 5531
 Bills to be introduced..... 5533
 Codes, contents and designation.. 5539
 Compilation and arrangement of laws 5531
 County boundaries, duty to define 5532
 Division of codes..... 5535
 Duty to correct imperfections.... 5533
 History of statutes..... 5537

CODE COMMISSIONER (Continued)

Inconsistencies, duty to note.... 5533
 Index, preparation of..... 5535
 Limitation of powers..... 5538
 Matter to be included..... 5536
 Oath of office..... 5534
 Report to legislature..... 5533
 Supervision by supreme court.... 5538

CODE OF CIVIL PROCEDURE

Construction of provisions of code 10704
 Effective, when 10702
 Forms and rules of pleading prescribed by 9126
 Limitations, running of, not affected by adoption of code.. 10706
 No common law when declared by codes 10703
 Prior actions and rights not affected by..... 10705
 Provisions, how construed..... 10704
 Title and contents..... 8783
 When effective 10702

CODE OF SIGNALS

In quartz mines3429- 3431

CODEFENDANTS

Any one or more may be convicted or acquitted 11862
 Appeal by one or more, effect... 12118
 Challenging jury, procedure..... 11942
 Discharge of one to testify for other, when 11975
 Effect of order of change of venue as to one..... 11927
 Evidence, use of..... 12178
 One or more may take appeal... 12118
 Turning state's evidence..... 11974
 Verdict of jury, justices' courts.. 12323
 what may be found..... 12025

CODES

See also Civil Code; Code of Civil Procedure
 See also Code Commissioner..5531- 5546
 See also Penal Code
 See also Political Code
 See also Statutes
 Certain acts to remain in force... 5527
 Cited, how 5541
 Codification special session 1921, authorized 5545
 Compilation of certain acts in 1907 codes 5529
 Conflict between
 chapters 5524
 titles 5523
 Conflicting sections 5525
 Construction of conflicting acts.. 5530
 with relation to laws passed at session 5521
 with relation to each other.... 5522
 Continuation of existing laws... 5
 Divisions of Political Code..... 1
 Effect on local and special statutes 18

GENERAL INDEX.

CODES (Continued)

Effect on prior laws.....	17
Established law of state.....	4
Liberal construed.....	4
Political Code, act establishing..	1
Prior acts in force.....	5527
Prior laws excepted from repeal..	5528
Public statutes.....	5528
Publication extra session laws of 1921.....	5546
Purpose of arrangement.....	5528
Repeal of existing statutes by....	17
Retroactive, when.....	3
Revised codes, 1921	
arrangement.....	5540
method of citation.....	5541
repeal of certain session acts	5543
repeal of code sections.....	5542
board of examiners may con- tract for publication.....	5547
bond of publisher.....	5552
cited, how.....	5541
conditions of contract.....	5548
contents.....	5540
defined.....	5539
distribution.....	5553
extra session 1921 included in..	5545
payment for work.....	5551
repeal of certain session acts	
repeal initiative act.....	5544
style of publication.....	5550
supply for public use.....	5551
time of performance of work..	5549
Statutes continued in force, when	17
Strict construction abolished....	4
Subordinate to interest of parties, when.....	8597
Tenure of officers preserved.....	6
When effective.....	5528

CODICILS

Effect of execution.....	6990
Included in will.....	16
When revoked.....	7007

COHABITATION

Bar to action for annulment of marriage, when.....	5729
Does not constitute marriage....	5695
Prevents annulment of marriage, when.....	5729

COIN

Counterfeiting, penalty.....	11362
Receiving counterfeit.....	11364

COLLATERAL WARRANTIES

Abolished.....	6876
----------------	------

COLLECTIONS

Agent, duties of.....	7803
Guaranty of, imports what.....	8178
Liability of banks on.....	6108, 6109
Partner may collect on liquidation	8017, 8018

COLLECTORS

Revenue, refusal of inspection of books.....	11330
---	-------

COLLEGE OF AGRICULTURE AND MECHANIC ARTS

Agricultural experiment stations acceptance of acts of congress..	895
.....	893, 894
designation as beneficiary.....	894
establishment of.....	891
Fergus county substation.....	899
acceptance of donations.....	901
acceptance of site.....	900
management of.....	892
Montana grain inspection labo- ratory—See Grain Inspection Laboratory.....	902- 912
president to make agreements..	896
Control and management.....	890
Establishment and objects.....	889
Horticultural experiment station.	888
Objects of.....	889
State entomologist.....	913- 916
Treasurer of executive board to receive funds.....	897
statement of funds.....	897

COLLEGES

See Corporations.....	6450- 6452
-----------------------	------------

COLLISION

Death from, punishment for....	11230
--------------------------------	-------

COLLUSION

See Divorce.....	5752- 5763
Punishment of attorney for..	8978, 10938

COLUMBIAN GROUND SQUIRREL

See also Tick-bearing Rodents..	
.....	2552- 2561
Extirmination of—See Gophers..	
.....	4495- 4500

COLUMBUS DAY

Holiday.....	10
School not to be dismissed on....	1062

COMBINATIONS IN RESTRAINT OF TRADE

See Restraint of Trade.....	10901-10915
-----------------------------	-------------

COMMERCIAL BANKS

See Banks and Banking.....	6014- 6109
----------------------------	------------

COMMERCIAL PAPER

See Negotiable Instruments Law.	8401- 8596
--	------------

COMMISSION FORM OF GOV- ERNMENT

See Cities and Towns.....	5366- 5399
---------------------------	------------

COMMISSION-MANAGER PLAN OF GOVERNMENT

See Cities and Towns.....	5400- 5520
---------------------------	------------

COMMISSION MERCHANTS

See also Factors	
Acknowledgment of goods.....	4183
Control by department agriculture, labor and industry.....	3561
False statements by.....	11415
Sale of property for storage, when	7665- 7671

GENERAL INDEX.

COMMISSION MERCHANTS (Continued)

Statement to consignor on sale...	4184
penalties	4185

COMMISSIONER OF AGRICULTURE, LABOR AND INDUSTRY

See Agriculture, Labor and Industry, Department of.....	3555- 3649
---	------------

COMMISSIONER OF INSURANCE

See Insurance Commissioner, State	6110
-----------------------------------	------

COMMISSIONERS

See State Boards, Commissions and Departments	
See Counties, subtitle commissioners	
Supreme court—See Supreme Court	8808- 8811

COMMISSIONERS OF DEEDS

Appointment	402
Copy of law to be furnished to...	407
Duties	403
Effect of acts.....	404
Fees for issuance of commission...	408
Fees of.....	406, 4915
May take acknowledgments.....	6907
Oaths	405

COMMISSIONS

Of	
executors and administrators..	10287
notaries public.....	385
revocation of.....	398
officers by governor.....	426
form of.....	427
Other commissions.....	428
To take testimony—See Depositions	10643-10658, 12199-12212

COMMITMENT

After found insane.....	12216
Bail, order for.....	11788
By justice, discharge, how.....	12333
Defect in form of warrant, not cause for release on habeas corpus	12363
Defendant on appearing for trial, when	12006
on preliminary examination, how and when.....	11786
order for, to sheriff.....	11787
Depositions of witnesses, when..	11794, 11795
Dismissal of action, when.....	12223
Failure to give increased bail....	11884, 11885
security to keep the peace....	11643
discharge, when.....	11644
For examination, form of.....	11777
Form of.....	11790, 12503
Fugitives from other states, for what time.....	12421
procedure	12420
Of defendant appearing for trial, when	12006

COMMITMENT (Continued)

On postponement of examination, when	11776
On preliminary examination, how made and to whom delivered	11789
Order for.....	11787
bail on.....	11788
signing and delivery to officer.	11789
Papers, etc., transmitted by magistrate to clerk of court.....	11796
Recommitment after giving bail, when	12167-12174
Sheriff to receive persons committed	12482
Statement of complaint to accompany	12504
To industrial school, form of....	12289, 12503
To vocational school for girls....	12535-12537
Undertaking of witness to appear in court.....	11791, 11792
Upon failure to appear.....	12170
When	12305
When and how.....	11786
Witnesses on refusal to give security, when.....	11794

COMMITTEEMEN

Central committeemen, election of	632
City committeemen, election of..	662
County committeemen, election of	662
National committeemen, election and term.....	663, 664
Powers of.....	662
Vacancies, how filled.....	662

COMMON BARRATRY

See Barratry.....	10936, 10937
-------------------	--------------

COMMON CARRIER PIPE LINES

Acceptance of act by.....	3850
Attorney-general to enforce act..	3849
Common carriers of oil	
carriers by federal laws.....	3848
defined	3848
lines	
along highway.....	3848
along railroads.....	3848
from field to distributing point	3848
within state.....	3848
Connections, railroad commission may require.....	3852
Daily limit for transportation oil.	3854
Damages for violation of act	
attorney-general to recover....	3856
how recovered.....	3856
penalty for violation of act....	3856
Discrimination in rates and service prohibited.....	3854
Discrimination misdemeanor....	3856
Duty to receive and transport oil without discrimination.....	3857
Effect partial invalidity of act..	3858
Eminent domain, right granted, when	3850
Facilities for receiving crude oil.	3852

GENERAL INDEX.

COMMON CARRIER PIPE LINES

(Continued)

Jurisdiction of railroad commission	3849
Marketable oil to be received	3852
Operation of, is public utility	3849
Penalty for violation of act	3856
attorney-general to recover	3856
Powers of railroad commission	3852
Public utilities	3849
Publicity given to what matters	3853
Railroad commission may establish rates	3854
Rates	
complaints concerning	3851
hearing to fix	3851
railroad commission to establish	3851
reimbursement, when reduced	3851
Regulation of construction of	3850
Reports required	3853
Right of eminent domain	3850
Right to construct along highways, etc., granted compensation for damages to highways	3850
incorporated cities excepted	3850
not to interfere with traffic	3850
Rules for prevention of waste	3855
Rules to determine quality of oil	3852
Subject to jurisdiction railroad commission	3849
Tariffs to be published	3853
Unconstitutionality of act, effect of	3858

COMMON CARRIERS

See also Carriage	7811- 7834
See also Carriers	
See also Freightage	7835- 7843
See also Railroads	6503- 6637
See also Railroad Commission	3779- 3847
See also Stoppage in Transit	8396- 8400
Agreements excepting from liability void	7853
Bills of lading—See Bills of Lading	7823- 7834
Carriers of messages	
damages for postponement or refusal	7877
degree of care required	7845
obligations of	7844
order of transmission of telegraph messages	7875, 7876
Carriers of persons	
baggage defined	7857
baggage, duty to carry	7856
baggage, how carried and delivered	7859
lien on	7866
baggage, liability of carrier for duty to provide vehicles	7858
ejection of passengers, when and how	7864
fare not payable after ejection	
fare, when payable	7863

COMMON CARRIERS (Continued)

Carriers of persons (continued)	
lien of carrier on baggage	7866
not to overload vehicle	7817
right to make regulations	7862
rate of speed	7819
schedule to be established and maintained	7848
seats to be provided for passengers	7861
treatment of passengers	7818
Carriers of property	
See also Carriage, 7820-7843, for general obligations of carriers, bills of lading and freightage	
delivery beyond usual route	7871
proof in case of loss	7872
liability for delay	7869
liability of inland carriers for loss	7867
certain exemptions not applicable, when	7868
other services, how regulated	7873
right to sell perishable property, when	7874
valuable articles, declaration by consignor	7870
Certain agreements void	7853
Compensation, rules governing	7851
Defined	7846
Effect of written contract	7854
Loss of valuable letters, when liable	7855
Obligation, how altered	7852
Obligation not to give preference	
Obligation to accept freight	7847
Perishable property, sale for freight, when	7874
Preference, when to be given	7849
Schedule, duty to establish	7848
Starting, rules governing	7850
Storage of unclaimed property	7667- 7670
Vehicles, duty to provide	7860
Violation of game law by	3734
When liable for expenses livestock sanitary board	3281

COMMON LAW

Construction of code	10710
Petit treason abolished	10958
Rule of decision, when	5672
Rule of strict construction abolished	4
When rule of decision	10703

COMMUNICABLE DISEASES

Defined	2457
-------------------	------

COMMUNICATIONS

See Contracts	7489- 7491
Of acceptance of offer of guaranty	8176
Privileged, when	5692
With convicts, when forbidden	10949

COMMUTATIONS

See Pardons	12247-12266
Sentence of convicts for good behavior	12455, 12456

GENERAL INDEX.

COMMUTATIONS (Continued)

Sentence of inmates of industrial school 12507

COMPANIES

Compulsory boarding-houses prohibited 11223

COMPENSATION

See Salaries
See Fees
See also Damages; See also Relief
See also Workmen's Compensation
Act 2816- 3033
County officers 4867
Defined 8657
For
care of property by lienholder. 8234
continuance of contract of service 7773
mistake, when allowed 8721
partial failure to perform 8722
Generally given by law 6039
Justices of the peace—See Fees. 4924- 4923

Of
appraisers of homesteads 6966
assignee for benefit of creditors 8639
common carrier 7851
counsel, when appointed to defend 11887
employee continuing in service after term 7788
finder of lost article 7688
on rescission of contract 8732
one undertaking service without employment 7810
partners 7992
servant on dismissal for cause . . 7792
servant when leaving for cause 7793
trustees 7918
voluntary depository 7810
Relief in case of forfeiture 8658
Stipulation for, effect on right to rescind 7566

COMPETENCY

Convicts as witnesses 11603
Of jurors—See Juries 8890- 8895
Witnesses—See Witnesses . . 12175-12178

COMPLAINTS

Account, how pleaded 9167
Action commenced by filing 9105
Action to recover gambling losses 11175, 11176
Actions in justice courts prosecuted by 11621
Against attorneys, how instituted 8951
Allegations, when deemed admitted 9178
Amendments 9134
Answer to 9137, 9150
Arrest without warrant, complaint to be filed 11731
As a pleading 9127
Bastardy proceedings 12267
By whom subscribed 9162
Charges to be by 11773
Contents 9129
in criminal cases 11728

COMPLAINTS (Continued)

Copy to be served with summons. 9110
Cross-complaints, when and how allowed 9151
Defined 11615
Demand for relief necessary 9129
Demurrer to 9131- 9136
Description of realty in 9168
Duty to make 11729
Effect of judgment dismissing . . . 9320
For violation intoxicating liquor laws, form of 11071
Form of, in election contests 10818
How endorsed 9106
Immaterial defects disregarded . . 9191
In abatement proceedings by county attorney 11126
In justice courts 9640
In justice or police courts 12302
actions prosecuted by 11621
on demurrer sustained 12311
In particular actions
actions against boats 9609, 9618
actions for partition 9520
eminent domain, contents 9940
forcible entry and detainer . 9894, 9900
injunction, essentials 9244
intervention 9088
justices' courts 9640
libel and slander 9175
In police courts 9725
In quo warranto, contents 9581
Irrelevant and redundant matter . . 9166
Joinder of causes of action 9130
Judgment, how pleaded 9169
Magistrate may issue subpoenas . . 11732
to examine complainant 11730
Material allegations, what are . . . 9180
Objections to, how taken 9135
Objections, when deemed waived . 9136
Original lost, copy to be used . . . 9817
Part of judgment-roll 9409
Performance of conditions precedent, how pleaded 9170
Plaintiff's first pleading 9128
Private statutes, how pleaded . . . 9174
Rules of pleading 9164- 9182
Security to keep the peace 11637
Supplemental 9181
Variance 9183- 9192
Verification 9163
Warrant for arrest, when issued . . 11730

COMPOUNDING CRIMES

Punishment for 10931

COMPROMISE

After suit brought, effect 9770
Executors and administrators may 10264
Guardians may 10418
Joint debtors may 9768
Of debt, without seal, good 10582
Offer of, in justices' courts 9687
Offer of, not an admission of debt 10684

COMPROMISING OFFENSES

Compromise bar to another prosecution 12221
In what cases permissible 12220

GENERAL INDEX.

COMPROMISING OFFENSES (Continued)	
Public offenses cannot be compromised, when	1222
COMPUTATION	
Of time.....	4277, 10707
CONCEALED WEAPONS	
See Weapons	11302-11309
CONCEALMENT	
By partners.....	7990
By trustees.....	7888
Effect on policy of insurance—See Insurance	8083- 8090
Of	
apprentices	11520
crime, punishment for.....	10931
defendant, service of summons	9117
property	
by debtors and defendants	
.....	10932, 10933
by insolvent debtor.....	11435
claim and delivery.....	9232
of estates.....	10140-10143
witness, service of subpoena...	10621
Property, how taxed.....	2033
Wearing masks or disguise prohibited, when.....	11571
CONCERT-HALLS	
Conducting on Sunday forbidden	11039
CONCLUSIONS OF LAW	
Separately stated, when.....	9367
CONCLUSIVENESS	
Grants against grantor and others	6868
CONCUBINAGE	
Importation and exportation of women for.....	11008
CONCURRENCE	
Majority of justices supreme court necessary.....	8806
CONCURRENT JURISDICTION	
Justice and district courts.....	8841
CONDEMNATION	
See Eminent Domain.....	9933- 9958
Buildings by fire marshal.....	2753
Land by United States.....	24
Property by state.....	30
CONDENSED MILK	
See Dairies and Dairy Products	
.....	2620- 2640
CONDENSED MILK FACTORIES	
Duty to register location.....	3569
Licensed by livestock sanitary board.	3282
CONDITIONAL EXAMINATION	
Witnesses—See Witnesses..	12187-12198
CONDITIONAL OBLIGATION	
Defined and classified.....	7400- 7408

CONDITIONAL SALES	
Contracts and notes, filing, indexing and release.....	7594- 7596
Contracts, default of vendee, sale of property.....	7597
Of railroad equipment and rolling-stock—See Railroads....	6533- 6539
CONDITIONS	
Of enjoyment of property—See Property	6701- 6721
Of official bonds.....	475
Conditional obligations—See Obligations	7400- 7408
Impossible of performance void..	7407
Involving forfeiture, how construed	7408
Restraining alienation void..	6704, 6705
Restraining marriage void, when	6703
CONDITIONS PRECEDENT	
Defined	6701, 7402
In offers of performance.....	7444
revocation of.....	7495
In wills.....	7045- 7047
Performance, how pleaded.....	9170
When grant takes effect.....	6871
When void.....	6702- 6704
CONDITIONS SUBSEQUENT	
Defined	6701, 7402
Effect on grants.....	6870
In wills.....	7048
CONDONATION	
See Divorce.....	5753- 5759
CONDUCTOR	
Intoxicated on duty.....	11253
Power to arrest for disturbances	11317
Railroad, peace officer for certain purposes	11570
Violation of duty, punishment...	11255
CONFECTIONERIES	
License	2589
CONFESSION	
Judgment by, court to inflict punishment	12028
Obtaining by third degree methods prohibited.....	10923, 10924
CONFESSION OF JUDGMENT	
Entry of judgment.....	9870
judgment-roll, contents of....	9870
In justice courts, how entered...	9871
Partner cannot make.....	7998
Statement in writing	
contents of.....	9869
filing	9869
When, where and for what entered	9868
CONFIDENCE GAMES	
Obtaining property by, punishment	11411
CONFIDENTIAL COMMUNICATIONS	
What constitute.....	10536

GENERAL INDEX.

CONFINEMENT

In jails to be actual..... 12471

CONFISCATION

Of coal by railroads prohibited.. 6592

CONFLICT OF LAWS

Construction of conflicting acts.. 5530
Construction of contracts, law of
place holds..... 7537
Construction of wills..... 7069
Conveyances, what laws govern.. 6930
Personal property, by what law
governed 6803
Real property, by what law gov-
erned 6722
Recording of instruments, by what
laws governed..... 6931
Wills 6988
Wills subsequent change of domi-
cile 6989

CONFUSION OF GOODS

See Accession.....6819- 6834
See Uniform Warehouse Receipts
Act4100- 4102

CONGRESS

Election of members—See Elec-
tions824- 828

CONGRESSIONAL DISTRICTS

Defined 48

CONNIVANCE

As affecting divorce..... 5751
Rescission of contract obtained by 7565

CONSANQUINITY

See also Succession.....7077- 7080
Disqualification of judges..... 8868
Ground for challenge of juror.... 11960
Incest 11029
Juror, challenge for cause..... 9344
Referees, disqualification..... 9381

CONSENT

See Contracts.....7473- 7497
Acquiescence in error as..... 8745
Age of.....5696, 11000
Does not constitute marriage.... 5697
Effect on desertion as ground for
divorce 5741
Essential to contract..... 7468
Fraud in obtaining—See Fraud
Meeting of corporation by, valid. 5950
Mutuality of..... 7488
Of

child to adoption, when neces-
sary 5860
debtor to rescission of contract
depositor for use of deposit.... 7650
husband not necessary to wife's
conveyance 5792
landlord to attornment to
stranger 7748
parent for adoption of child... 5859
parent or guardian, when neces-
sary for marriage..... 5712

CONSENT (Continued)

Of (continued)
principal to release of factor.. 7809
stockholders of corporation vali-
dates meeting..... 5950
wife to adoption of child neces-
sary 5858
wife to selection of homestead
from her property..... 6947
To
adoption of child, persons must
appear before judge..... 5861
allow trustee to hold adverse
interest 7893
apprenticeship of child..... 5891
apprenticeship of child, when
mother is necessary..... 5892
contract, kinds of..... 7473
corporate meetings—See Corpo-
rations
creation
of guaranty not necessary... 8172
of partnership of all neces-
sary 7982
of trust, mutual, necessary.. 7903
marriage proved, how..... 5697
rescission of contract..... 7565
separation
mutual, sufficient..... 5788
not desertion..... 5741
revocable act..... 5743

CONSIDERATION

See Contracts.....7503- 7513
Agency, not necessary for crea-
tion of..... 7938
Effect of recital of..... 10605
Failure of, grounds for rescission 7565
For alteration of contract, new,
not necessary..... 7568
For negotiable instruments—See
Negotiable Instruments Law
.8431- 8436
For release of obligation..... 7464
Illegality as affecting title to ne-
gotiable instrument..... 8462
Not necessary to creation of
agency 7938
Presumption of..... 10606
Void, ground for rescission of
contract 7565
When necessary for creation of
guaranty 8173
Writing presumptive evidence of 7512

CONSIGNMENT

See Carriage—See also Freightage
Penalty for false statements by
brokers 11415

CONSOLIDATED BOARDS

Clerk, appointment and salary.... 123

CONSOLIDATION

Co-operative associations....6390- 6393
Mining companies..... 6650
Of actions, court may order, when 9820

GENERAL INDEX.

CONSOLIDATION (Continued)

- Railroad, telegraph, and other corporations
 - effect of..... 6001
 - of competing lines forbidden... 6647
 - Railroads, when permitted...6524- 6531

CONSPIRACY

- See also Restraint of Trade.10901-10915
- Admissibility of evidence..... 10531
- Criminal, defined.....10898, 10899
- Evidence on trial for..... 11979
- Overt act, when necessary..... 11979

CONSTABLES

- Bond.....467, 4860
- By what law governed..... 4861
- Duties on receiving execution
 - from justices' courts..... 9696
- Duty
 - as to branding livestock while driven through state..... 11547
 - as to gambling.....11169
 - to attend justice court..... 4859
- Ex officio auctioneer, when..... 4149
- Execution of judgment of justice. 12326
- Execution of process by retiring constable 9721
- Fees 4932
- Interest in judgments forbidden. 10860
- May break into buildings where games played..... 11168
- Peace officers..... 11620
- Penalty for refusal to arrest persons 10916
- Process, duty to serve..... 4859
- Refusal to pay over fines, etc.... 11321
- Special, appointment..... 9719
- Summon jury for inquest..... 8916
- Time for bringing actions against 9031
- To serve coroner's warrant..... 12391
- Trainmen are, for certain purpose 11570
- Warrant of arrest, execution..... 11735-11737

CONSTITUTION

- Custody of enrolled copy..... 133
- Expression of supreme power.... 5671
- Organic law..... 10547
- Prescribes election certain officers 111

CONSTITUTIONAL AMENDMENT

- Publication of..... 537

CONSTITUTIONAL CONVENTION

- Delegates to, election of..... 632

CONSTITUTIONAL OATH

- City and town officers to take... 5027
- Form of..... 430
- Officers to take..... 430

CONSTRUCTION

- Codes 4
 - with relation to each other.... 5522
 - with relation to laws passed... 5521
- Conflicting acts.....5523- 5530
- Conflicts between
 - chapters 5524
 - parts 5523
 - sections 5525

CONSTRUCTION (Continued)

- Contracts regarding weights and measures 4225
- Of
 - conditions involving forfeiture 7408
 - contracts—See Contracts..7526- 7552
 - conveyances—See Conveyances
 - negotiable instruments..... 8424
 - statutes and instruments—See Evidence10518-10527
 - wills—See Wills.....7016- 7050
- Official bonds..... 480
- Pleadings, liberally construed.... 9164
- Revenue laws..... 1996
- Statutes94, 10710, 10711
- Words and phrases.....15, 16, 10713
 - giving joint authority..... 14
 - in indictment or information... ..11850, 11851

CONSTRUCTIVE

- Delivery of grants, when deemed 6848
- Fraud 7481
- Notice8780, 8781
 - recorded instruments constitute 6934
- Service—See Publication
- Trusts 7887

CONSULS

- Acknowledgment before..... 6908

CONTAGIOUS DISEASES

- See also Livestock
- Children infected not to be sent to industrial school..... 12503
- Exposing person infected with... 11257
- Exposure of infected clothing.... 11503
- Of animals with glanders..... 11263
- Removal of prisoners from county jail 12479
- Restriction by state board of health 2455

CONTEMPT OF COURT—See Contempts

CONTEMPTS

- Abuse of process..... 9908
- Acts constituting contempt of court9908, 9909
- Acts constituting criminal contempts 10944
- Bail, person arrested may give... 9912
- Bail-bond, form and contents of.. 9914
- Breach of the peace..... 9908
- Certiorari, issuance of by justice supreme court..... 8866
- Committed in presence of court not so committed, how punished 9910
- punished summarily..... 9910
- Confinement under arrest, how far permissible 9920
- County attorney, failure to file information 11801
- County commissioners may punish 4469
- Court to determine guilt..... 9917
- Disobedience of mandate..... 9860
- Disobedience to subpoena or process 9908
- Disorderly conduct..... 9908

GENERAL INDEX.

CONTEMPTS (Continued)

Executors removable for.....	10373
Failure to attend for jury service	9908
Grand juror acting after challenge allowed	11815
Hearing, how conducted.....	9916
Illness cause for nonappearance..	9920
Impersonating officer.....	9908
Imprisonment, when imposed.....	9918
In justice courts—See Justice Courts	9698- 9702
In proceedings supplementary....	9461
Interference with process.....	9908
Judgment, how imposed.....	9917
Judgments and orders final.....	9921
Judicial officers may punish for, when	8874
Jurors, refusal to dissent to ver- dict on polling.....	12033
Justices of supreme court may is- sue certiorari at chambers...	8866
Mitigation of punishment for, when	11585
Notice to show cause, when issued	9911
Officer taking acknowledgment may punish for.....	6926
Officer to return warrant and un- dertaking	9915
Official misconduct.....	9908
Penalty if adjudged guilty.....	9917
Person may be imprisoned until performance of act.....	9918
Power of judges to punish.....	8874
Power to punish.....	10717
Practicing law without license....	8943
Proceedings when party fails to appear	9919
Punishable also as crime.....	11584
Punishment, how.....	9910
Purchaser on execution sale.....	9436
Re-entry of property after evic- tion constitutes, when.....	9909
Refusal to attend as interpreter..	10538
Refusal to permit inspection of books	9771
Renewal of application on denial.	8877
Rescues	9908
Resisting process.....	11656
Return of warrant of arrest.....	9915
Review on certiorari, when.....	9921
Sheriff to arrest and detain per- son, when.....	9913
Warrant of attachment may issue, when	9911
Witnesses refusing to testify.....	10624
Witnesses before legislative as- sembly	83

CONTENTS

Writing, how proved.....	10516
--------------------------	-------

CONTEST BOARD

See State Lands.....	1840
----------------------	------

CONTEST OF ELECTIONS

See Elections.....	659-661, 829
See Corrupt Practices Act...	10803-10820
Salaries withheld pending.....	451, 452

CONTEST OF WILLS

See Probate Proceedings....	10032-10038
-----------------------------	-------------

CONTINGENCY

Effect of provisions on note.....	8411
-----------------------------------	------

CONTINGENT FUNDS

Establishment for department of agriculture	3645
Establishment for state institu- tions	285

CONTINGENT REMAINDERS

See Estates.....	6734, 6740
------------------	------------

CONTINGENT REVOLVING AC- COUNTS

Establishment for state institu- tions	195
---	-----

CONTINUANCE

See also Adjournment	
See also Postponement	
Absence of testimony, require- ments	9332, 9669
Costs imposed as condition of....	9793
Court may grant, in its discretion	9332
Depositions taken on, as evidence	9333
In forcible entry, when not al- lowed	9906
In justices' courts, grounds of....	9667
consent of parties.....	9668
limitation, undertaking....	9669, 9670
showing on application.....	9669
Jury, continuance of cause.....	8902
Nonreturn of commission to take testimony.....	10649
Not granted in actions against boats, when.....	9612
Of causes until jury in attendance	8902
On application to dismiss action— See Dismissal	12224, 12225
Taking of depositions in interim..	9333

CONTINUING GUARANTY

Defined	8186
Letter of credit may create.....	8216

CONTRACTS

See also Obligations.....	7394- 7466
Acceptance	
by performance of conditions..	7492
communicated, how.....	7490
must be absolute.....	7493
of benefits as consent.....	7497
when deemed complete.....	7491
Actions on, where triable.....	9096
Actions upon	
unwritten contracts, time for commencement.....	9030
written contracts, time for com- mencement	9029
Alteration	
duplicates, not to prejudice....	7572
sealed contracts, how.....	7569
verbal contracts, how.....	7568
written contracts, how.....	7569- 7571
Benefit of code provisions may be waived	8597
Burden of proof to invalidate con- sideration	7513

GENERAL INDEX.

CONTRACTS (Continued)

Cities and towns—See Cities and Towns	5069- 5077
Classification of	7514- 7552
Code provisions subordinate to interest of parties, when	8597
Communication of acceptance, how	7490
when deemed complete	7491
Conditional sales contracts, filing of	7594- 7597
Conditions precedent, how pleaded	9170
Consent	
communication of	7489
essentials of	7473
mutuality of	7488
not free, when	7475
when deemed wrongfully obtained	7476
when voidable	7476
Consideration	
amount, how ascertained	7509
burden of proof to invalidate	7513
effect of illegality	7506
exclusive provisions, when void	7511
executed or executory	7507, 7508
good consideration defined	7503
how ascertained	7509
impossibility of ascertaining, effect	7510
kinds of	7507
moral obligation, how far good	7504
must be lawful	7505
writing presumptive evidence of	7512
Construction	
See subtitle interpretation	
as understood by parties	10526
circumstances considered	10521
handwriting experts	10524
in favor of natural right	10528
language of place where used	10518
of two, which preferred	10525
regarding weights and measures	4225
terms used	10522
written words control printed	10523
County commissioners, interest in, when forbidden	4606
Damages	
allowed for breach of	8667
contracts fixing, void, when	7556, 7557
for breach of	8667
Defined	7467
Disaffirmance by minors—See Minors	5679- 5682
Disaffirmance by persons of unsound mind—See Disaffirmance	5681- 5685
Duplicate copies, effect of alteration of one	7572
Duress, elements of	7477
Essential elements	7468
Executed and executory defined	7552
Execution of defined	10581
Executory consideration, how specified	7508
Explained by circumstances	7538
Express defined	7515
Express or implied	7514
joined in complaint	9130

CONTRACTS (Continued)

Extinction by	
alteration of verbal contract	7568
cancellation	7570
unauthorized alteration	7571
Extinguished, how	7563
For personal services, limitation on	7773
Fraud	
actual fraud, elements of	7480
actual fraud, question of fact	7482
constructive fraud	7481
kinds of	7479
Good consideration	7503, 7504
Good will, contracts concerning, valid, when	7560
Guaranty of illegal, void	8185
Husband and wife may contract, how	5786, 5787
Identification of parties necessary	7471
Illegal interest of public officers in, forbidden	10827
Illegality, effect of	7506
Implied defined	7516
Impossibility, what deemed	7500
Intention, how ascertained	7528, 7529
Interpretation	
ambiguous promise, how interpreted	7540
copied parts, when disregarded	7542
entire contract effective	7532
explained by circumstances	7538
how interpreted	7528
inconsistent words rejected	7544
intention ascertained from language	7529
intention ascertained from writing, when	7530
interpretation in favor of contract	7534
interpreted as promisor believed understood	7540
laws of place applicable	7537
mutual intent to be given effect	7527
necessary incidents implied	7547
particular clauses subordinate	7541
reasonable stipulations implied	7546
repugnancies, how reconciled	7543
restricted to evident object	7539
several contracts construed together, when	7533
technical words, how understood	7536
time of performance, when implied	7548
uniformity of	7526
words, against whom interpreted	7545
words, how understood	7535
writing, when disregarded	7531
written parts control, when	7542
Joint and several promise, when	7550
Judgment by default	9322
Law governing grants applicable to written contracts	7522
Law of place governs	7537
Marriage, contract of—See Marriage	5695- 5727
Marriage, contracts in restraint of, void	7562

GENERAL INDEX.

CONTRACTS (Continued)

Married women may contract, how	5811
liability for.....	5810
May be oral, when.....	7517
Measures of damages for breach..	8667
Menace, elements of.....	7478
Minors, capacity to contract.....	7470
Minors, disaffirmance by.....	5679-5682
Mistake	
kinds of.....	7484
of	
fact	7485
foreign laws, what.....	7487
law	7486
Necessary incidents implied.....	7547
Not in writing through fraud, enforcement of.....	7518
Object	
defined	7498
requisites of.....	7499
when contract wholly void....	7501
when contract partly void.....	7502
Obligations imposed by law—See	
Obligations	7573-7580
Oral contracts, when lawful.....	7517
Parties to contract.....	7469
Partnership agreements, restraint of trade, when permissible..	7561
Personal property, contracts to	
buy or sell, when valid.....	7591
manufacturing contracts, when excepted	7592
Persons of unsound mind, rescission by.....	5684
Persons without understanding, liability	5683
Powers of persons whose incapacity adjudged.....	5685
Prevented by fraud, when enforceable	7518
Promise deemed joint and several, when	7550
Public officers not to be interested in	444
Ratification of void contract....	7496
Repugnancies reconciled.....	7543
Rescission	
as extinction.....	7564
how effected.....	7567
permissible, when.....	7565
stipulations against, when void	7566
Restraint of marriage void, when	7562
Restraint of trade void.....	7559
Restraint upon legal proceedings void	7558
Revision and rescission of—See	
Revision	8726-8729
and Rescission.....	8730-8732
Revocation of proposal, when...	7494
how made.....	7495
Sale of good-will, certain conditions not void.....	7560
School trustees, interest in, forbidden	1016
Sealed and unsealed instruments, distinction abolished.....	7524
Seals, corporate, how affixed....	7523

CONTRACTS (Continued)

Seals, instruments effectual without	7525
Signed by one party may be enforced by other.....	8718
Specific performance	
cannot be enforced against parties, when.....	8721
in favor of parties not enforceable, when.....	8722
of written contract, when..	8718, 8719
State supplies—See Examiners, State Board of.....	254-269
See also Purchasing Department, State.....	284-293
Statute of frauds.....	7519, 10613
Statute of limitations.....	9029, 9030
Stipulations implied, when.....	7546
Subsequent consent ratifies, when	7496
Successive actions on, when maintained	9819
Suretyship contracts, how interpreted	8198
Third persons may enforce, when	7472
Time of performance, when implied	7548
Time, when of essence.....	7549
Title reservation contracts, sale on default of vendee.....	7597
Title reservation contracts to be filed where.....	7594
duty of recorder.....	7595
release of obligation.....	7596
To marry, when voidable.....	5706
To purchase land	
completed by executors.....	10268
how sold by executors.....	10237
Undue influence defined.....	7483
Unlawful contracts	
exempting from fraud or injury	7554
fixing damages.....	7556
exception	7557
releasing from liability for personal injuries.....	7555
restraining	
exception on sale of good-will in favor of partnership agreements	7560
legal proceedings.....	7561
marriage	7558
marriage	7562
trade	7559
Verbal contracts, how altered....	7568
Waiver of jury in actions on....	9365
What must be in writing.....	7519
Who may contract.....	7469
Writing supersedes what.....	7520
Writing, when necessary....	7519, 10613
Written	
and copied parts, how construed	7542
contents, how proved.....	10516
contents not to be varied....	10517
contracts	
delivery necessary.....	7522
effective, when.....	7521
how modified.....	7569-7571
instrument as evidence of consideration	7512

GENERAL INDEX.

CONTRIBUTION

Among legatees, when compelled	10236
Between sureties on official bonds	
.....	477, 491
How affected by release of joint debtors	7466
How and when compelled on execution sales.....	9451
When compelled between cosureties	8206
insurers in case of double insurance	8148
joint parties.....	7399
When compelled from joint debtor	9769

CONTRIBUTIONS

Corporations and others forbidden, when	10790
Soliciting from candidates forbidden	10789
from other public officers forbidden	10785

CONTRIBUTORY NEGLIGENCE

See also Negligence	
Rule, when abolished as to railroads	6606

CONTROVERSIES

Submission without action, procedure	9872- 9874
--------------------------------------	------------

CONVENTIONS

Primary nominating—See Elections	612- 630
Traveling expenses public officers in attendance, how regulated	443

CONVERSION

By trustees and others is larceny	11382
By will, when effective.....	7037
Damages of lienor of personal property	8691
Executors and administrators may sue	10259
Extinguishes lien, when.....	8242
Of personal property, extent of damages for.....	8689, 8690

CONVEYANCES

See also Transfers, Grants and Deeds	
See also Fraudulent Conveyances	
.....	11432-11435
Acknowledgment by judicial officers	8875
Acknowledgment of—See Acknowledgments	
After-acquired title passes by...	8255
Agricultural land void, when....	6707
Attorney in fact, how executed..	6863
By convict.....	11602
By executors and administrators	10268-10280
Certified copies	
as evidence.....	10598
record in another county..	6890, 6934
Change of name of former owner, effect of.....	6864
City lots, void, when.....	6708

CONVEYANCES (Continued)

Constructive notice of contents..	6934
Deeds, statutory form of.....	6860
Defective instruments, effect of record	6932
Defined	6936
Descriptions, rules for construing	10683
Early conveyances, how governed	6930
Early deed valid, though not acknowledged	6933
Early defects in, curative act...	6932
Easements pass with property...	6865
Effect of record before adoption of code.....	6931
Estates in real property, how conveyed	6859
For recording acts—See Recording Conveyances	
Grants	
after-acquired title passes....	6867
attorney in fact executes, how..	6863
attornment of tenant, when unnecessary	6872
boundary by highway passes what	6873
by married women to be acknowledged	6861
by owner for life or for years..	6869
change of name of former owner	6864
covenants implied from use of "grant"	6874
defined	6842
delivery in escrow	6846
delivery to grantee is absolute.	6845
delivery, when deemed constructive	6848
easements pass with property..	6865
effective on delivery.....	6843
encumbrances embrace what...	6875
fee simple presumed to pass, when	6866
form of grant of real estate...	6860
heirs and issue, meaning in certain remainders.....	6854
how far conclusive on purchaser	6868
how interpreted.....	6849
implied covenants in grant....	6874
incidents	6857
interpretation against grantor..	6852
irreconcilable provisions, how construed	6853
limitations, how controlled....	6850
lineal and collateral warranties abolished	6876
may inure to benefit of stranger	6858
on conditions precedent.....	6871
on conditions subsequent.....	6870
power of attorney by married woman acknowledged.....	6862
presumed delivered at date....	6844
real property, how transferred..	6859
recitals, when resorted to....	6851
redelivery to grantor, effect of.	6847
subsequently-acquired title passes	6867
what title passes.....	6856
when in favor of grantee.....	6852
words of inheritance unnecessary	6855

GENERAL INDEX.

CONVEYANCES (Continued)

Married women, acknowledgment by	6911, 6912
Minor, power to make	5679
Mortgage not deemed conveyance	9495
Notice of record	6934
Of property of estates	10228
Of separate property of wife	5792
On execution sale	9444
On partition	9556, 9558
Person of unsound mind, rescission by	5684
after judicial determination	5685
restoration to capacity, how established	5685
Personal property	
buyer acquired better title than seller, when	6881
gifts of—See Gifts	6882-6889
interest in existing trust, how transferred	6877
transfer by sale, how regulated	6878
transfer of title under executory agreement	6880
transfer of title under sale	6879
Real property must be in writing	10611
Record, certified copy in another county	6934
Record, constructive notice to whom	6934
Recording—See Recording Conveyances	6934
State land board may correct errors in	1815
Transfer	
by owner out of possession	6840
defined	6835
oral, when valid	6841
possibility cannot be transferred	6838
right of re-entry not subject to voluntary, defined	6839
what property subject to	6836
Trust declarations, recording of	6837
Trusts, interest in, how transferred	7907
Unlawful transfers—See Unlawful Transfers	6877
Validation of certain early conveyances	6939-6944
When void against subsequent purchasers	6933
When void against subsequent purchasers	6935
Wife absent from state need not sign	5818

CONVICT LABOR

How regulated	12446
Permitted on works by highway commission	1790

CONVICTION

Accomplice's testimony	11988
Bar to subsequent prosecution, when	11581, 12002
Cause for challenge of juror	11958
Codefendants	11862
Corporation, fine, how collected	12237
Court to declare punishment, when	12028

CONVICTION (Continued)

Defendants may be convicted of what crimes or attempts	11868
Defense to second prosecution	11612
Degrees of crime, bar	12002
Failure of defendant to appear for sentence, commitment	12170
For higher offense, effect of	11914
Former, of offense included in subsequent charge, bar	11914
plea, form of verdict	12020
verdict on charge of	12023
How had	11614
Impeachment, nature of judgment what necessary	11682, 11679
In foreign state, effect	11583
In other county, when bar	11720
In other state, when bar	11719
Judgment necessary for	11614
removal from office	11699
Jury may declare punishment	12027
Must be legal	11606
Not to work forfeiture of property	11605
Of what offense defendant may be convicted	11868
On plea of guilty	11614
One of several defendants may be convicted	11862
Prior form of plea	11908
in foreign state, punishment	11595
of attempt, punishment	11594
plea of	11907
punishments	11593
Procedure upon	12035
Punishment without, forbidden	11606
Reasonable doubt as to degree of crime	11972
Upon verdict and judgment	11614
What necessary for	11614
When had on testimony of accomplice	11988

CONVICTION OF FELONY

Cause for divorce	5736
Causes vacancy in office	511

CONVICTS

See also Jails	
See also Prisoners	
See also State Prison	12434-12465
Attempt to escape	10867
Bringing before court of another county	12432
Civil rights suspended	11600
Commutation of sentence—See Pardons	12247-12266
Competent witnesses, when	11603
Conveyances by	11602
Conviction of felony may be shown, when	10668, 10674
Credit upon sentence for good behavior	12455, 12456
forfeiture of, when	12457
Depositions, how taken	12198
Employment of, how regulated	12447
Escape from prison	10866
Labor, how regulated	12446

GENERAL INDEX.

CONVICTS (Continued)

Labor on highways, when permitted	1790
Limitations, in real actions, effect of	9026
Officers permitting escapes.....	10869
On parole, status of.....	12264
to report to whom.....	12265
Pardon of—See Pardons.....	12247-12266
Parole of.....	12264
Person protected by law.....	11604
Persons assisting escapes....	10870, 10871
Removal of, for purpose of testifying	12186
Restoration to citizenship.....	12263
Reward for apprehension of.....	12415
Suit of clothes and money on discharge	12458
Time for commencing civil actions	9049
Unauthorized communication with	10949
Under protection of law.....	11604

COOPERAGE

By railroads of box-cars for shipment of grain—See Railroads	6613-6619
--	-----------

CO-OPERATIVE AGRICULTURAL CORPORATIONS AND DISTRICTS

Appeals from order of court.....	6424
Appraisal of value of equity of dissenting stockholders.....	6422
Articles of incorporation, issuance	6400
Board of directors, powers.....	6409
Bond to accompany petition.....	6398
By-laws	
adoption	6406
amendment	6408
contents	6407
recording	6408
Certificate of incorporation, issuance of.....	6400
Creation authorized.....	6397
Directors	
election of.....	6411
powers	6409
qualifications	6410
quorum	6410
to give notice of first meeting	6401
vacancies	6410
Election of directors	
ballots and voting.....	6412
how conducted.....	6412
when held.....	6411
Election of proxies by subdistricts	6412
Errors not prejudicial, when.....	6423
Existing associations may organize, how.....	6421
Existing corporate laws applicable	6425
Findings of court.....	6400
First meeting, how noticed and held	6401
Formation of.....	6397
Hearing of petition.....	6400
Indebtedness	
execution and record of mortgage.	6417

CO-OPERATIVE AGRICULTURAL CORPORATIONS AND DISTRICTS (Continued)

Indebtedness (continued)	
executive officers to file petition in court.....	6415
foreclosure of mortgage.....	6418
hearing on resolution creating.	6416
how created.....	6414
limitations on.....	6414
notice of hearing on resolution creating	6416
objections to petition, hearing on	6416
order of court.....	6416
passage of resolution creating..	6415
Lien of corporate indebtedness upon membership land.....	6403
recording articles of incorporation as notice.....	6403
Limitation of act.....	6427
Limitation on indebtedness.....	6414
Locals	6426
Map to accompany petition.....	6398
Meetings, how conducted.....	6413
Members defined.....	6405
Membership lands defined.....	6405
Mortgage	
contents of.....	6417
execution and recording of.....	6417
foreclosure of, procedure.....	6418
lien of.....	6417
tax-levy	6418
Notice of hearing of petition....	6399
Order of district court, when final	6424
appeals from.....	6424
Organization of districts by existing associations, procedure... ..	6421
dissenting stockholders, appraisal value of equity.....	6422
Petition	
bond	6398
contents and filing.....	6398
findings of court.....	6400
hearing of.....	6400
issuance of certificate of incorporation	6400
map to accompany.....	6398
notice of hearing of.....	6399
Power of associate members, how exercised	6426
Power to own co-operative enterprises	6426
exceptions	6427
Powers of board of directors.....	6409
Procedure for receiving other members	6402
Proxies, election of.....	6413
Quasi-public corporations.....	6400
Resolution creating indebtedness —See subtitle indebtedness	
Subdistricts, election of proxies by	6413
Subdivision of subdistricts, creation of.....	6404
Tax-levy, court may order on foreclosure mortgage.....	6418
Voting	6413
Who may form.....	6397

GENERAL INDEX.

CO-OPERATIVE AGRICULTURAL CORPORATIONS AND DISTRICTS (Continued)

Withdrawal of lands	
effect of filing copy, order of court	6420
petition to withdraw	6419
petitioner to apply to court, when	6420
procedure	6419

CO-OPERATIVE AGRICULTURAL OR HORTICULTURAL ASSOCIATIONS

See Co-operative Marketing Act	6428- 6449
--	------------

CO-OPERATIVE ASSOCIATIONS

See Corporations	6375- 6396
----------------------------	------------

CO-OPERATIVE MARKETING ACT

Activities permitted	6431
Agricultural produce defined	6429
how handled by	6433
Annual report to commissioner of agriculture	6445
contents of	6445
Articles of incorporation	
amendments, how made	6436
certified copies as evidence	6435
contents and filing	6435
filing with college of agriculture	6435
Association defined	6429
Association may purchase stock, when	6441
By-laws	
adoption of	6437
contents of	6437
penalty for violation	6437
Certificates of membership, conditions governing	6441
Contracts—See subtitle marketing contracts	
Contracts with other associations authorized	6446
Dean of agricultural college, communication with	6432
Declaration of policy	6428
Definition of terms	6429
Directors	
election of	6439
salaries	6439
vacancies, how filled	6439
Directors, removal of	6442
charges and procedure	6442
number of signers on petition	6442
Election of directors	6439
Election of officers	6440
Existing associations may adopt act	6447
Fees for filing articles	6449
General and special meetings, how called	6438
General powers of associations	6433
Liability of members for debts of association	6441
Marketing contracts	
execution and terms	6444

CO-OPERATIVE MARKETING ACT (Continued)

Marketing contracts (continued)	
injunction on breach	6444
liquidated damages on breach	6444
Meetings, how called	6438
Member defined	6429
Members	
who may be	6434
liability for debts of association	6441
members in other associations	6434
other than natural persons	6434
Membership certificates, issuance of	6441
Name of act	6429
Number necessary to organize	6430
Officers, election of	6440
Organization of	6430
Person defined	6429
Power to contract with other associations	6446
Powers of associations	6433
Preliminary investigation recommended	6432
President and vice-president, election of	6440
Publication of act	6428
Publication of organization	6431
Purpose of act	6428- 6431
Referendum may be had, when	6443
Removal of officers and directors	6442
Secretary and treasurer, election of	6440
Stock	
amount member may hold	6441
association may purchase, when transfer of, when prohibited	6441
Stock issue	
promissory notes accepted	6441
when paid for	6441
Title of act	6429
Transfer of stock, when prohibited	6441
Unconstitutionality of act	6448
Vacancies in directors, how filled	6439
Votes of members	6441
Who may organize	6430

CO-OPERATIVE RECLAMATION IRRIGATION PROJECTS

Organization of	1977
---------------------------	------

COPIES

Certificate of correctness of, contents	10573
Certified copies of records as evidence	10598
Contracts, effect of alteration or destruction of duplicates	7572
Fees, when not chargeable	9832
Filing, when originals lost	9817
Final order in eminent domain filed	9951
In justice courts, filing of	9649
Indictment or information, trial on	11866
Insertion of, in pleadings	9172
Of	
books, accounts, etc	9771
complaint in forcible entry, service unnecessary	9894

GENERAL INDEX.

COPIES (Continued)

Of (continued)	
complaint, service with summons	9110
entries, when admissible.....	10595
foreign records, how proved...	10557
instruments for payment of money, pleading of.....	9171
laws of other states, evidence..	10551
orders made in setting aside homestead	10157
public writings.....	10542, 10543
Record on appeal, authentication	9746
Recorded conveyance, effect of filing in another county....	6934
Refusal to allow taking, contempt, when.....	9771
Stenographic notes to be furnished whom, fees for.....	8931
When admissible in evidence.....	10585, 10598
When deemed genuine, in justices' courts	9650

COPYRIGHT

Effect of publication.....	6809
----------------------------	------

CORN

Pounds in bushel.....	4226
-----------------------	------

CORONER

Bond	466
Burial of bodies, when.....	4849
expenses, how paid.....	4849
County treasurer to sue, when...	4764
Discharges duties of sheriff, when	4853
Entitled to custody of bodies, when	11036
Executes process, when.....	4792
Fees of.....	4922
Fees of jurors.....	4935, 4942
Inquest in case of prisoners.....	4856
payment of costs.....	4857
Inquests—See Coroner's Inquests	
Jury of inquest defined.....	8889
Justice of peace to act, when....	4852
Must not practice law.....	8992
Must summon jury of inquest....	8916
Property	
found on dead bodies.....	4850
money, when subject to demand	4766
received from, disposal of.....	4765
Register	4854
Statement to be filed by.....	4851
Stenographer for.....	4855
Time for bringing actions against	9031
Treasurer to sue, when....	4764

CORONER'S INQUEST

Coal mines, inquest in, when....	3540
Coroner to issue warrant, when..	12388-12391
to summon jury to inquire concerning deaths, when.....	12381
Inquest secret until after arrest..	12389
Jurors to be sworn.....	12382
Jury to be called, when.....	12381
Physician may be summoned.....	12383
Reference to law governing.....	4848
Testimony in writing, where filed	12386
exception to above rule.....	12387

CORONER'S INQUEST (Continued)

Verdict of jury in writing.....	12385
contents	12385
Warrant of arrest, when person present	12390
form of warrant.....	12392
how served.....	12393
when person absent.....	12391
Witnesses compelled to attend....	12384
to be subpoenaed.....	12383

CORONER'S JURY

See Coroner's Inquest.....	12381-12393
----------------------------	-------------

CORPORATIONS

See Counties, Cities and Towns, and Schools, Public, for municipal corporations	
See also Investment Companies..	4026- 4055
See also County Farm Bureaus...	4542- 4544
Acknowledgment by, form of....	6915
Actions against directors or stockholders not within statute of limitations, when.....	9061
Acts concerning, subject to repeal	6013
Adjournment of meetings authorized	5946
Agricultural corporations—See Co-operative Agricultural Corporations	
Amenable to laws.....	9828
Amendments to articles of incorporation	
adoption of resolution.....	5919
bonded indebtedness, procedure to create or increase.....	5929
certain existing laws not affected	5928
certificate as evidence.....	5924
certificate of proceedings, publication and filing.....	5923
contents	5921
decrease capital stock, limit....	5927
extension of business, procedure	5918
how made.....	5918
issuance new stock certificates.	5923
name, how changed.....	5918
notice, publication and mailing	5920
notice, publication, how waived	5920
number of directors.....	5918
organization	5922
pending suits not affected.....	5924
place of business, how changed.	5918
scope of act.....	5923
shares of stock, how changed, increased or decreased.....	5918
term of existence, how extended	5918
term of existence, limit of extension	5926
voting	5922
when effective.....	5924
Annual statement	
contents and filing.....	6003
liability of directors for failure to file.....	6003
Anti-trust law continued in force	5972
Appearance and plea in district courts	12236

GENERAL INDEX.

CORPORATIONS (Continued)

Articles of incorporation	
acknowledgment of.....	5907
amendment of—See subtitle amendments	
assessment life corporations, contents.....	5906
building and loan associations, contents.....	5906
certificate of comptroller of currency as evidence of national banks.....	5915
certificate of secretary of state as evidence.....	5914
certified copy, prima facie evidence.....	5913
contents of, generally.....	5905
defined.....	5904
ditch and flume companies, contents.....	5906
filing in office of county clerk where property is located..	5909
damages for neglect to.....	5909
effect of.....	5909
institutions of learning, contents.....	5906
other facts to be stated, when	5906
railroad companies, contents...	5906
release from payment of fees..	5912
religious corporations.....	5906
signing and acknowledgment..	5907
telegraph and telephone companies, contents.....	5906
tunnel corporations, contents...	5906
validation	
effect of.....	5911
fees to be paid.....	5912
validation of.....	5910
As sureties.....	9826
when acceptable.....	9827
Assessment of property for taxation ..	2013, 2015
Assessment of stock	
actions for recovery of stock sold for.....	5989
assessments not invalidated, when ..	5988
contents of order.....	5976
corporation may purchase, when	5985
delinquent sales, extension of time ..	5987
directors may levy.....	5973
disposal of stock purchased by corporation ..	5986
jurisdiction acquired by publication ..	5982
limitation on amount.....	5974
limitations on actions to recover stock sold for delinquent assessments ..	5989
notice, form of.....	5977
publication and service.....	5978
notice of sale of delinquent stock ..	5979
contents of.....	5980
publication ..	5981
procedure to make stock assessable ..	5993

CORPORATIONS (Continued)

Assessment of stock (continued)	
proof of publication and sale...	5990
sale at auction.....	5983
purchase by highest bidder..	5984
to what corporations applicable.	5992
unpaid assessments, regulation of levy.....	5975
waiver of sale and action to recover ..	5991
Assessment of stock and franchise	2015
Banking corporations—See Banks and Banking.....	6014-6109
Bearer certificates.....	5959-5965
Board of directors—See subtitle directors	
Bonded indebtedness, procedure to create ..	5929
Building and loan associations	
annual statement.....	6365
form, attestation and filing..	6366
articles of incorporation.....	6356
bonds of officers.....	6360
borrowing money, conditions regulating ..	6358
cancellation of stock by.....	6358
capital stock	
meaning of term.....	6357
subscription necessary for organization ..	6357
certificate of vote, filing of....	6356
collateral held as security by state treasurer.....	6364
directors, election and term....	6357
dissolution of corporation, how effected ..	6358
examination by state examiner, when ..	6367
powers of state examiner...	6369
proceedings to revoke charter, when ..	6368
publication of condition of company, when.....	6370
expenses and losses, how paid..	6362
fees, to whom payable.....	6371
fund for contingent losses....	6361
incorporation, how effected....	6356
loans, conditions regulating....	6358
losses, assessment of.....	6362
may commence business, when..	6357
organization, how effected....	6355
penalties for violation of act...	6373
powers ..	6358
state examiner, reports by.....	6374
to approve amendments.....	6357
state treasurer, liability of....	6372
submission of constitution and by-laws to state examiner....	6357
taxation, what property subject to ..	6363
withdrawals, conditions regulating ..	6358
withdrawing members, rights of	6359
By-laws	
adopted, when, how, and by whom ..	5930-5936
assent of stockholders to adoption ..	5930

GENERAL INDEX.

CORPORATIONS (Continued)

By-laws (continued)	
may prescribe quorum.....	5946
provide for what.....	5931
recording.....	5932
repeal or amendment, how....	5932
Cannot take by will, exception...	6977
Capital stock—See subtitle stock and stock certificates	
Cemetery associations	
annual elections.....	6481- 6483
annual reports of trustees.....	6484
articles of incorporation, filing of.....	6471
effect of filing.....	6472
by-laws, enactment of.....	6473
conveyance of land, how made.	6480
eminent domain, right to exercise.....	6472
exemption of property from taxation.....	6486
formation of, how effected....	6469
funds, to what purpose applied	6485
lots	
conditions governing use....	6487
how transferred.....	6487
officers.....	6475
permanent care and improvement fund	
annual report of trustees....	6502
creation of.....	6488
income, how used.....	6498
investment of.....	6499
not to exceed what sum.....	6496
powers of district court in relation to.....	6494
powers of survivors.....	6493
principal of, to be reserved..	6497
secretary of board.....	6501
transfer of, how effected.....	6496
trustees.....	6489
bond of.....	6491
classification of.....	6470
election of.....	6481
fees of.....	6500
recording and appointment of.....	6495
tenure of office.....	6490
vacancies, how filled.....	6492
power to take land by purchase or gift.....	6479
powers.....	6472
record of interment kept by...	6476
register of interments.....	6477
penalty for failure to keep..	6478
secretary, duties of.....	6476
trustees	
annual reports of.....	6484
board of.....	6469
may enact by-laws.....	6473
may fix day for election, when	6483
powers and duties.....	6475
qualifications of.....	6470, 6482
vacancies in membership..	6474
Certificate of secretary of state as prima facie evidence.....	5914
Certificates of stock—See subtitle stock certificates	

CORPORATIONS (Continued)

Change of articles of incorporation—See subtitle amendments to articles of incorporation.....	5918- 5929
Change of name—See subtitle amendments to articles of incorporation.....	5918- 5929
Change of name of religious and benevolent corporations.....	9964
Changes in organization and arrangement—See subtitle amendments to articles of incorporation.....	5918- 5929
Charter, reservation of right to alter or repeal.....	5997
Churches, incorporation of—See subtitle religious, social and benevolent corporations.	6453- 6461
Colleges and seminaries	
articles of incorporation, contents of.....	6451
board of trustees, election, term, quorum, and powers.....	6452
incorporated, how.....	6450
Compulsory boarding-houses prohibited.....	11223
Consent meetings valid, when....	5950
Consolidation with foreign corporations, effect of.....	6001
of mining companies.....	6650
Contributions for political purposes forbidden.....	10790
Co-operative agricultural corporations and districts—See Co-operative Agricultural Corporations and Districts....	6397- 6427
Co-operative associations	
assignment of stock, regulation of.....	6382
by-laws, adoption of.....	6380
certificate of incorporation, issuance of.....	6378
consolidation, how effected....	6390
certificate of.....	6391
effect of.....	6392
equal terms and privileges..	6391
obligation of contracts preserved.....	6393
decedents, disposal of shares of	6383
directors	
election and term.....	6377
number and powers.....	6380
dissolution, when and how effected.....	6388
earnings, how apportioned....	6387
exemption of stock from attachment.....	6383
existing associations, when bound by act.....	6389
first meeting, calling and notice	6377
incorporation, how effected....	6375
increase of membership, how effected.....	6384
license to open books for subscriptions.....	6375
name, restrictions upon use....	6394
duty of secretary of state..	6395

GENERAL INDEX.

CORPORATIONS (Continued)

Co-operative associations (continued)	
name, restrictions upon use (continued)	
penalty for violation of act..	6396
net earnings, distribution of...	6388
powers	6379
profits, distribution of.....	6388
reserved power of regulation...	6385
shares of stock, denomination and kind.....	6381
forfeiture for nonpayment for stock, when exempt from execution	6381
stockholders, limit of stock....	6376
voting by mail, how permitted.	6386
Corporate powers, how questioned	6000
Cumulative voting for directors..	5937
Debts, liability of stockholders for	5966
Defined	5900
Diocesan corporations—See subtitle religious diocesan corporations	
Directors	
absent from meeting, when presumed to assent.....	11452
change in number of, how....	5918
classification as to term of office	5934
composition of board of.....	5933
cumulative voting for.....	5937
defined	11458
duties on dissolution.....	6011
elected, when.....	5936
election of.....	5935
election of officers.....	5938
election of, water users' associations, where held.....	5943
elections	
how conducted.....	5937
proxies	5937-5946
liability for failure to file annual statement.....	6003
majority may act.....	5938
meetings	
how and where held.....	5943
outside of state, procedure..	5943
special, how called.....	5944
must be members.....	5933
must declare dividends only from surplus.....	5939
liability for violation.....	5939
number, powers and quorum...	5933
organization of board of.....	5938
penalty for false statements...	5942
present at meeting, when deemed to assent.....	11451
president, election of.....	5938
presumed to have knowledge of affairs	11450
qualifications of.....	5933
removal of.....	5940
meeting, how called.....	5940
resignation, how.....	5941
restrictions upon.....	5939
vacancies, how filled.....	5933

CORPORATIONS (Continued)

Directors' meetings—See subtitle meetings of stockholders and directors	
Dissolution	
by act of officers on expiration of charter, procedure.....	6011
by district court—See Dissolution of Corporations....	9922-9928
directors trustees for creditors on	6011
how effected.....	6010
on sale of property, when....	6005
Dividends	
from surplus profits only.....	5939
Duty to furnish information to state board of health.....	2452
Effect of indorsement of negotiable instrument by.....	8429
Election of directors—See subtitle directors	5935-5937
Elections	
adjournment, when and how..	5948
annual, when held.....	5935
complaint as to illegality.....	5949
majority of stock to be represented	5946
postponed, how.....	5948
stockholders, how represented..	5947
Endorsement of negotiable instrument passes title.....	8429
Existence questioned, when....	5998
Existing corporations not affected by act.....	5917
Existing corporations to continue, how	5916
Extension of business, procedure for	5918
False certificates and reports by officers of.....	5942
Fees paid by, to secretary of state	145
First meeting	
adoption of by-laws.....	5936
election of directors.....	5936
Forbidden to take under will, when	6977
Foreign corporations	
amendment of charter, certificate to be filed.....	6651
annual report, contents and filing	6654
annual statement, form and filing of.....	6654
penalty for violation of act..	6655
consent of agent, filing of.....	6652
certified copy as evidence....	6652
consent to license law of state..	6651
consent to service of process..	6651
contracts void unless compliance with law had.....	6653
copy of amendment of articles to be filed.....	6651
designation of agent for service of process.....	6651
duty to file copy of charter and statement	6651
eminent domain, right to exercise	6658

GENERAL INDEX.

CORPORATIONS (Continued)

Foreign corporations (continued)	
existing corporations, how affected by act.....	6657
failure to comply with law forfeits rights.....	6651
time for compliance with act	6651
fee for increased capital stock	6651
filing fees, where enumerated..	6662
jurisdiction of state courts over shares of stock subject to attachment	6661
what companies excepted....	6660
must file copy of charter and statement with secretary of state	6651
contents of statement.....	6651
penalty for failure to file....	6651
penalty for acting as agent....	6656
possess no greater powers than domestic	6659
publication of summons.....	9117
security for costs.....	9807, 9808
service of summons on....	9111-9116
shares of stock subject to attachment, when.....	6661
statements by, contents of....	6651
subject to law.....	11453, 11454
unauthorized agent, punishment	11455
Form of acknowledgment by....	6915
Formation for what purposes....	5903, 5908
Fraternal benefit societies	
accumulation basis, how ascertained	6330
amendments of constitution and laws, how.....	6327
annual reports, filing and contents	6328
articles of incorporation, contents of.....	6317
to be filed with insurance commissioner	6317
attachment of benefits prohibited	6326
attorney, appointment of.....	6322
beneficiaries, who may be.....	6311
right to designate.....	6311
benefit certificates, regulation of bond to be filed with insurance commissioner	6309
certificates, issuance and contents	6317
constitution and by-laws, power to make and alter.....	6317
constitution and laws	
copies to be filed.....	6327
may forbid waiver of terms..	6325
death or annuity benefits on lives of children.....	6339
amount of.....	6339
continuation of certificate on termination of membership	6344
medical examination of children required.....	6340
payment of expenses from general fund.....	6343
reserve requirements.....	6341

CORPORATIONS (Continued)

Fraternal benefit societies (continued)	
death or annuity benefits on lives of children (continued)	
separate financial statement to be made.....	6342
surrender of benefit certificates	6341
deferred payments are fixed liabilities	6314
fund to be maintained for...	6314
defined	6305
discontinuance of business and forfeiture of charter, when...	6317
dissolution for failure to insure financial security, when.....	6329
domestic societies, examination of	6331
examination by commissioner of insurance	6317, 6331
exempt from general insurance laws	6308
exempt from taxation.....	6337
exemption of benefits from attachment	6326
exemption of certain societies from act.....	6326
extended and paid-up protection, when granted.....	6310
not to exceed reserve.....	6310
financial security, provisions to insure	6329
foreign societies	
how admitted.....	6321
license fee for.....	6321
license, how procured.....	6321
procedure on refusal or revocation of license.....	6305
qualifications required.....	6321
review of action of commissioner	6305
foreign societies, examination of penalty for refusal to submit to	6333
funds	
creation and investment of..	6314
how derived.....	6314
how distributed.....	6316
how invested.....	6315
insurance commissioner to issue preliminary certificate of authorization	6317
investment of funds, how regulated	6315
of foreign societies.....	6315
licenses	
and renewals.....	6320
revocation of.....	6335
lodge system defined.....	6306
mergers and transfers	
commissioner of insurance to approve	6319
how regulated.....	6319
mortuary obligations, how computed	6314
must designate commissioner of insurance as attorney.....	6322

GENERAL INDEX.

CORPORATIONS (Continued)

Fraternal benefit societies (continued)	
officers and members, liability of	6324
organization	
amount of advance payments which must be collected . .	6317
how effected	6317
must secure how many applicants	6317
preliminary certificate, conditions of issuance	6307
payment of benefits by	6309
penalties for violation of act . .	6338
place of meeting, where	6323
powers of	6309
powers retained by existing societies	6318
principal office, where	6323
publication of financial status, how regulated	6334
qualifications for membership . .	6312
quo warranto proceedings to dissolve, when	6331
receiver, when appointed . . .	6331
service of notice	6331
receiver, application for by attorney-general	6332
reincorporation by existing societies, when	6318
reports, filing and contents . . .	6328
valuation, how ascertained and certified	6328
representative form of government defined	6307
revocation of license	6335
service of process on, how made fee for	6322
solicitation of members to complete organization	6317
valuation of certificates on accumulation basis, how and when	6330
valuation on tabular basis	6330
valuations, how ascertained and certified	6328
waiver of law, restrictions	6325
what societies exempt from act	6336
Frauds in	
exhibition of false documents . .	11439
issuance or disposal of stock . .	11438
keeping account books	11445
procuring organization of	11439
publishing false reports	11446
false statement of concern . .	11436
subscribing for stock of	11437
unauthorized use of name in prospectus	11440
Grant of powers, subject to repeal	5997
Increase of capital stock, procedure	5918- 5929
Industrial and manufacturing corporations	
how formed	5908
name not to resemble existing corporation's	5908
term of	5908

CORPORATIONS (Continued)

Information to state board of health	2452
Injunction against formation of trust	9254
Injunction order to suspend business, when granted	9253
Insurance corporations—See Insurance Corporations	6111- 6354
Issuing bills prohibited	5996
Justices of peace may call meeting, when	5945
Lease of property, procedure for	6004
Liability of directors for failure to file statements	6003
Liability of stockholders for debts	5966
License tax—See Taxation	2296- 2304
Loan to stockholders prohibited .	5958
Majority subscribed capital stock must be present at elections . .	5946
Meetings of stockholders and directors	
adjournment of	5946
consent meetings valid	5950
proceedings binding	5951
justice of peace to order, when majority of stock must be represented	5946
postponement of election, when special directors' meetings, how called	5944
stock of minor, how represented	5947
voidable if majority of stock not present	5946
when, where, and how held . . .	5943
Members defined	5952
Mining, regulation of—See Mines and Mining	6648- 6650
Minors' stock, how represented . .	5947
Misconduct of directors of stock corporations, acts constituting	11441
Mistake in name disregarded . . .	5999
Money, issuance prohibited	5996
Mortgages	
how issued and filed	8273
officers entitled to execute . . .	8277
Mortgaging property, procedure for	6004
Name	
how changed	5918
required	5999
Name of instrument creating . . .	5904
Noncompliance with law a misdemeanor	11456
Notaries stockholders, power to take acknowledgments	390
Notes in payment for shares of stock	5968, 5969
Notice, on amended articles of incorporation	5921
Oath as fiduciary, how executed .	9828
Officers	
election of	5938
liability for false reports	5944
resignation, how effected	5941
to permit inspection	11447

GENERAL INDEX.

CORPORATIONS (Continued)

Organization within one year....	6000
inquiry into, how and when made	6000
Petitions by certain corporations for change of name.....	9964
Place of business, how changed..	5918
Poll-tax, when liable for.....	2283
Postponement of election.....	5948
Powers	5994
limitation of.....	5995
may exercise eminent domain..	6002
may sell entire property, how..	6004
to hold real estate.....	6002
to take by will, when.....	6977
Preferred stock, regulation of...	5994
Private corporations	
how formed.....	5902
purposes for which formed.....	5903
Procedure to sell, lease or mortgage property.....	6004
Proceedings against	
appearance and plea.....	12236
certificate of magistrate and return	12234
county attorney to file information, when.....	12235
default, when entered.....	12239
examination of charge, how conducted	12233
fine on conviction, how collected for violation of corrupt practices act.....	10815
judgment, how entered.....	12239
magistrate to issue summons, when	12230
service of summons, when and how	12232
summons, form of.....	12231
on filing of information, issuance and service.....	12238
to issue, when.....	12230
Promissory notes in payment for shares of stock	5968, 5969
Proof by reputation in criminal cases	11983-11985
Property, must file articles to hold	5909
Proxies	
foreign registry.....	5960
married women.....	5955
voting by, authorized.....	5937
voting of stock by.....	5946
Public and private defined.....	5901
Punishment for failure to comply with law.....	11456
agents liable for noncompliance	11457
Purposes for which organized...	5903
Quo warranto proceedings against—See Quo Warranto....	9576-9601
Railroad companies, officers contracting debt, when liable...	11448
Railroad corporations—See Railroad Companies.....	6503
Real property, amount acquired..	6002
Receivers appointed on dissolution, when.....	9301-9303
Receiving deposits in insolvent banks	11443

CORPORATIONS (Continued)

Records	6008
composition and keeping of....	6008
protest to be entered.....	6008
stock and transfer books.....	6009
Redemption of property by, how effected	9444
Religious corporations, sole articles of incorporation, filing and contents	6463
amendment of.....	6467
certificate of amendment, issuance of.....	6468
certificate of incorporation, issuance of.....	6464
created, when.....	6462
powers	6465
successors of officers, power of. certificate and statement filed by	6466
Religious diocesan corporations	
division of.....	6460
existing laws not affected.....	6461
how organized.....	6459
officers, designation and powers. remuneration of.....	6460
vacancies, how filled.....	6460
parish or local religious corporations	
how organized.....	6460
powers of.....	6460
powers of.....	6459
rank and powers of officers....	6459
Religious, social and benevolent corporations	
agricultural societies, how incorporated	6453
articles of incorporation, contents of.....	5906, 6455
by-laws, matters embraced in... charities, how incorporated....	6456
churches and religious societies election of trustees to form corporation, when.....	6457
certificate accompanying....	6457
trustees to file articles, how..	6457
churches, how incorporated....	6453
directors, board of.....	6455
fraternal societies, how incorporated	6453
incorporation, procedure for...	6454
lodges, how incorporated.....	6453
powers	6455
to mortgage or sell property. resolution, contents and passage social clubs, how incorporated..	6453
stockgrowers' associations, how incorporated	6453
Removal of directors.....	5940
Repeal of act by legislature, effect of	6013
Reservation of power to appeal..	5997
Restrictions on devises to charitable or benevolent corporations	7015
Sale of property	
appeal from appraisement.....	6007
appraisement of stock.....	6006
dissolution on sale, when.....	6005

GENERAL INDEX.

CORPORATIONS (Continued)

Sale of property (continued)	
procedure	6004
rights of dissenting stockholders, how asserted	6006
Savings bank officers, overdrawing account	11442
Scope of act	6012
Seal, how affixed	7523
Securities, other corporations, purchase of	5971
Securities, warranty on indorsement	8472
Service of process upon	
duty of secretary of state	9114
fees for	9113
how made in certain cases	9113
service deemed personal	9115
service of other notices, how	9116
Service of summons on foreign corporations	9111
Shares of stock—See subtitle stock and stock certificates	
how attached on execution	9424, 9261,
.	9262
Special meetings, how called	5944
Statement to be filed annually	6003
Stock	
assessment of—See subtitle assessment of stock	5973-5993
certificates, how and when issued	5953
changes in number of shares, etc.—See subtitle stock certificates and stock	
demand for statement	5957
penalty	5957
treasurer to furnish	5957
division and distribution	
how regulated	5939
increase of, procedure for	5918-5929
issued fixing value of mines	5970
issued for purchase of property, when	5970
liability of stockholders	5966
payment for, calling and notice	5967
preferred, creation of	5994
limitations on	5994
promissory notes in payment of	
defenses in action on	5969
how issued	5968
proxy by married woman	5955
purchase of, of other corporations	5971
Stock and transfer books, contents	6009
Stock certificates	
adoption of necessary by-laws	5965
bearer certificates	5962
bearer may vote	5962
convertible into registered	
certificates	5964
dividends, how paid	5963
foreign registry of	5960
issuance of, when	5959
notice of meeting waived	5961
proxies, foreign registry	5960
dividends, payment on	5955

CORPORATIONS (Continued)

Stock certificates (continued)	
how and when issued	5953
transfer by married woman,	
how	5955
payment of dividends	5955
proxies without husband's signature	5955
transfer by nonresident stockholder, affidavit or bond	5956
transfer of, recording on books of corporation	5954
Stockholders	
defined	5952
liability of	5966
loan to, prohibited	5958
meetings—See subtitle meetings of stockholders and directors	
right	
to appeal from appraisal	6007
to demand statement	5957
penalty for refusal of treasurer	5957
rights of dissenting, on sale of property	6006
Summons to on filing of indictment or information	12238
Term of existence, how extended	5918
Term of existence of industrial corporations	5908
Title insurance companies	
capital stock	
amount required	6347
how invested	6347
certificate of authorization, issuance	6347
necessity for	6353
dividends made only from profits	6350
expenditure for commencement of business	6349
incorporated, how	6345
loans to officers or employees forbidden	6454
powers of company	6351
securities	
exchange and sale of	6348
interest and dividends on	6348
subject to rules of insurance department	6346
surplus fund	
creation of	6350
impairment of	6350
trust company business	
conditions to be complied with	6352
power to transmit	6352
what deemed a policy	6350
Trust and investment companies—See Banks and Banking	6014-6109
Validation of articles of incorporation—See subtitle articles of incorporation	5910-5912
Validity of debts of railroad companies not affected by unauthorized acts of officers	11449
Verification of pleadings by	9163

GENERAL INDEX.

CORPORATIONS SOLE

See Corporations.....6462- 6468

CORPUS DELICTI

Proof of, necessary..... 10962

CORROBORATION

Abortion, seduction, etc. 11984

Accomplices 11988

Trial for false pretense..... 11987

CORROBORATIVE EVIDENCE

Defined 10504

CORRUGATED IRON CULVERTS

See Highways.....1721- 1725

CORRUPT PRACTICES ACT

See also Election Frauds and Offenses10747-10772

Bets and wagers on elections forbidden 10794

Business advertising, solicitation, when permissible..... 10789

Buttons and badges, use forbidden, when..... 10797

Campaign expenditures for nomination

by party organization, limit of. 10774

by relatives..... 10774

limitation of..... 10773

Candidate construed..... 10775

Certain payments for attending election and for services forbidden 10797

Certain payments of money forbidden 10802

Challenging voters, procedure.... 10792

Coercion or undue influence of voters forbidden..... 10793

Complaint, form of..... 10818

Contributions for certain officers forbidden 10785

from corporations and public utilities forbidden..... 10790

soliciting forbidden, when..... 10785, 10789

Convention credentials, transfer, when forbidden..... 10787

Corporations, procedure against for violation of act..... 10815

Corrupt practices defined..... 10796

Criminal libel defined..... 10800

Definition of terms..... 10775

Election contests

advancement of case..... 10817

bond 10813

certification of findings..... 10814

citation to contestee..... 10813

complaint, form of..... 10818

contents of petition..... 10813

corporations, proceedings against for violation of act..... 10815

costs, by whom recovered..... 10813

county attorney, duty to prosecute 10808

court to declare person elected, when 10809

dismissal, when..... 10817

disqualification of candidates.. 10807

electors may contest..... 10810

CORRUPT PRACTICES ACT (Continued)

Election contests (continued)

evidence 10814

grounds of contest..... 10810

illegal votes, allegations and evidence 10812

illegal votes, contests, accounts of, when authorized..... 10811

joinder of causes..... 10814

judgment to award costs..... 10814

lack of good faith must be shown 10803

precedence of actions..... 10813

privileges of witnesses..... 10817

removal from office, when..... 10804

when commenced..... 10805

where filed 10806

Election expenses—See subtitle statement of candidates' expenses

Forfeiture of nomination for violation of law..... 10803

Form of candidates' statement of expenses 10819

complaint in election contests.. 10818

"Give" construed..... 10775

Names of candidates not to be printed until statement of expenses filed 10801

Newspapers and publishers, printing of paid matter, how regulated 10798

Paid political advertisements, how regulated 10798

Payment for accepting or declining nomination forbidden..... 10802

credentials forbidden..... 10788

refraining from candidacy forbidden 10789

transportation to polls forbidden, when..... 10797

Payments in name of undisclosed principal forbidden..... 10783

Penalty for false oath or affidavit violations not otherwise provided for..... 10816

Perjury, who deemed guilty of... 10820

Person construed..... 10775

Personation forbidden, penalty.. 10795

Political agent construed..... 10775

committee construed..... 10775

statement of expenditures by criminal libel defined, punishment 10800

Promise of appointment to office forbidden 10784

Public office construed..... 10775

officers not to contribute to funds 10785

prohibited from acting as delegates or committees... 10786

speakers, when exempt from act 10775

Punishment for violation of act.. 10804

GENERAL INDEX.

CORRUPT PRACTICES ACT (Continued)

Receiving money for becoming candidate forbidden.....	10802
criminal proceedings, how instituted.....	10802
Solicitation of certain contributions from candidates forbidden.....	10789
from public officers forbidden..	10785
of voters on election day forbidden.....	10799
Statement of candidates' expenses by political committees.....	10777
filed, when and where.....	10776
penalty for failure to file....	10776
time for filing.....	10776
candidates must file, when....	10776
complaints, contents, oath and filing.....	10779
contents of statement.....	10776
copies of act to be furnished whom.....	10778
copies to be furnished, when...	10782
court may compel filing of statement.....	10781
demand for statement, when made.....	10779
form of.....	10819
inspection of accounts.....	10779
jurisdiction of actions for violation.....	10781
names not to be printed on ballot until filed.....	10801
penalty for failing to file....	10776
preservation of.....	10782
prosecution for failure to file..	10780
Tickets, sale to candidate, when forbidden.....	10789
Transportation to polls, payment, when forbidden.....	10797
Treating by candidates forbidden	10791

CORRUPTLY

Definition.....	10713
-----------------	-------

COSTS

Allowed, of course, to plaintiff, when.....	9787
to defendant, when.....	9788
Appeal from award in eminent domain.....	9947
Attorneys' fees	
how regulated generally.....	9786
in actions for wages and salaries.....	9800
not included in cost bill, when	9801
on foreclosure of liens.....	9799
on foreclosure of mortgage....	9798
Between counties on change of venue.....	9104
Bill of	
contents of.....	9803
none in justice court.....	9804
Claimant against county to pay, when.....	10191
Collection of lien for wages.....	8355
Contest of probate of will.....	10047

COSTS (Continued)

Continuance, imposing as condition.....	9793
County	
liability on change of venue...	9100
payment to in fish and game prosecutions.....	3754
need not pay costs, when.....	9810
Court to render judgment for on dismissal.....	9321
Default.....	9322
Defendant may recover, when...	9788
Defined.....	9802
Demurrer or motion, costs on...	9797
Disbursements defined.....	9802
Discretionary with court, when..	9789, 9791
Distribution of estates.....	10326
Divorce actions without, when...	5780
Dower proceedings.....	10165
Eminent domain.....	9953
Escheated estates.....	9961
Execution for, when.....	9805
Execution on for benefit of clerk or sheriff, when.....	9812
Executors and administrators, liability for.....	10190
Expense of trial for escapes....	10872
Extradition, how paid.....	12427
Fees of referees.....	9792
Fees to be itemized.....	9813
Fines and forfeitures to be applied.....	12433
Fines and payment, duration of imprisonment.....	12069
Fish and game prosecutions, how paid.....	3705, 3754
Imposed as condition of continuance.....	9793
In	
actions by or against executors and administrators.....	9795
actions to quiet title.....	9489
actions to recover excess railroad charges.....	3808
by railroads to determine reasonableness of rates.....	3809
by shipper against railroads.	3810
condemnation proceedings....	9953
discretion of court when.....	9789
probate proceedings.....	10368-10372
review, other than by appeal..	9796
Include what.....	9802
Included in justice court judgments.....	9688
Injunctions.....	9787
Interest included in.....	9806
Judgment	
for, a lien.....	12073
that prosecutor pay, when rendered.....	12070
to include.....	9806
Justices of peace may require security for.....	9715
who entitled to in justice courts.....	9716, 9804
Keeping person while under arrest.....	9200

GENERAL INDEX.

COSTS (Continued)

Mandamus	9858
Memorandum, filing, when allowed on appeal.....	9805
Motion overruled.....	9797
Not allowed, when.....	9789
Not taxed against prosecuting of- ficers	9810
Of	
appeal discretionary with court, when	9791
partition suit a lien on shares..	9570
witnesses on change of venue..	9103
Officers' fees must be itemized...	9813
On	
appeal how claimed.....	9805
executions against homesteads.	6967
removal of criminal actions be- fore trial.....	4953
removal, proceedings for col- lection of.....	4954
review other than by appeal..	9796
Order for sale of real property by guardian	10437
Partition suits	
attorneys' fees in.....	9533
cost of abstract.....	9573
costs, how apportioned.....	9539
previous litigation allowable, when	9572
Payment, when state or county party	9814, 9815
Plaintiff may recover, when.....	9787
Poor person may sue without.....	9809
Prepayment, when required.....	9811
Probate proceedings.....	10372
procuring bonds in.....	10106
Prosecutor to pay in justices' courts, when.....	12330
judgment against prosecutor...	12331
Prosecutor to pay judgment, exe- cution on.....	12070
Provisions concerning effect on negotiability of note.....	8409
Quo warranto.....	9579, 9580
against corporations.....	9787
Real actions.....	9787
Referees' fees.....	9792
Removal from office.....	11702
Revocation of, submission to ar- bitration	9981
Schedule of in supreme court....	372
Security for	
from nonresident plaintiff.....	9807
action dismissed, when.....	9808
when required.....	9807
Security for in quo warranto.....	9579
Service, officer may require in ad- vance	9120
Setting aside homestead.....	10156
Severance of costs, when.....	9790
Special proceedings.....	9787
State and county need not pay, when	9810
Submission of case on agreed statement	9873
Suits in forma pauperis.....	9809
Survey and inspection of mines..	9494

COSTS (Continued)

Taxed against complainant, when	11650
When county a party, how paid..	9815
When state a party, how paid....	9814
When tender made before suit..	9794
Witness fees taxed as.....	4944
Witnesses on change of venue....	9103

COTENANTS

See also Tenants in Common	
Any number may sue or defend..	
.....	9082, 9085
Waste, liability for.....	9475

COTERMINOUS OWNERS

See Boundaries—See also Fences

COTRUSTEES

Liable for each other's acts, when	7899
------------------------------------	------

COUNCILS

City—See Cities and Towns

COUNSEL

See also Attorneys-at-Law	
Appointment by court to defend accused, when.....	11886
in impeachment proceedings...	11675
Argument by—See Argument	
Compensation when appointed by court	11887
Defendant to be informed of right to, by magistrate.....	11773
For defendant, duty to send for..	11774
May comment upon what in argu- ment	11969
Right to, on arraignment.....	11886
visit defendant on arrest.....	11744
Special, employment in tax suits, when	2267
Special, to assist county attor- ney, when.....	4486

COUNSEL FEES

See Attorneys-at-Laws; subtitle
fees

COUNTERCLAIM

Admission, judgment for excess..	9150
Affirmative relief, judgment for defendant	9141
defendant must demand.....	9148
Against plaintiff as executor, when	9143
Answer to contain.....	9137
By executor or other person sued in representative capacity...	9142
contents of.....	9138
Defendant has right to provi- sional remedy, when.....	9312
Defendant may set forth all de- fenses or counterclaims....	9146
Defined	9138
Demurrer	
must specify grounds.....	9157
to by plaintiff, grounds for...	9156
Effect of failure to set up in jus- tice courts.....	9643
Effect of omission to set up.....	9144
Failure of plaintiff to reply.....	9160

GENERAL INDEX.

COUNTERCLAIM (Continued)

In justice courts, answer to con-	
tain	9642
effect of failure to assert....	9643
Judgment	
in favor of defendant, when..	9140
on, in justice courts.....	9686
upon, how given.....	9405
Legal and equitable, to be set up	9146
Mode of trial, how directed.....	9329
Not barred by death or assign-	
ment	9145
Reply to.....	9158
Rules governing.....	9139
Separately numbered and stated,	
when	9146
Verdict for.....	9362

COUNTERFEITING

See Forgery and Counterfeiting..	
.....	11355-11367
Trademarks	11199
destruction of.....	11207
selling goods bearing.....	11200

COUNTIES

All matters relating to county	
powers, government, and in-	
stitutions, including county	
officers and commissioners,	
are treated under this title	
Actions against, for rejected	
claims, time for commence-	
ment	9035
Actions against, where tried.....	9095
Advertising resources of county,	
appropriation for.....	4470a
Assessor, county	
See Taxation.....	2001- 2047
taxation in cities—See Cities	
and Towns.....	5206- 5215
annual settlement of.....	2042
bond of.....	466
deputies, appointments and sal-	
ary	2037, 4877
duties concerning	
collection of farm statistics..	
.....	2043- 2047
collection of names of owners	
of pure-bred stock.....	3351
report assessed valuation of	
school districts.....	1215
state hail insurance.....	356
transmission of statement to	
state board of equalization	
.....	2139, 2140
duties generally—See Taxation	
.....	2001- 2047
duty to	
attend meetings board of	
equalization	2118
present statement property	
that has escaped assess-	
ment	2118
false statements to, penalty for	11324
liability for unassessed property	
.....	2039- 2041

COUNTIES (Continued)

Assessor, county (continued)	
member of jury commission....	8896
refusal to furnish list of prop-	
erty	11323
salary	4867
traveling expenses of.....	2038
Athletic commission—See County	
Athletic Commission....	4551- 4562
Attorney, county	
See also main title County At-	
torney	
bond of.....	466
deputies	
number of.....	4880, 4881
salary	4873
duties concerning	
enforcement of fire laws.....	2785
protection of motormen.....	3063
recovery of moneys illegally	
paid	4451
violation of vital statistics	
act	2539
duties generally.....	4819
legal adviser	
county commissioners.....	4820
school officers.....	1328
may subpoena witnesses with-	
out tender of fee.....	4902
not to present claims against	
county	4822
other duties.....	4823
register of business.....	4819
report of money.....	4819
salary	4867
salary of deputies.....	4873
special counsel, when employed	4486
suits to recover money, when...	4821
treasurer to sue, when.....	4763
Auditor, county—See Auditor,	
County	4824- 4834
Banks, deposit of funds, security	4767
Board of county commissioners—	
See subtitle commissioners,	
county	
Board of equalization—See Taxa-	
tion	2113- 2121
Bodies corporate.....	4441
Bonds	
and warrants—See subtitle	
finance	
number of signers necessary on	
petition	1252
of county officers.....	466, 467
official—See subtitle officers	
scope of act.....	1254
Boundaries and county seats	
Beaverhead	4305
Big Horn.....	4306
Blaine	4307
Broadwater	4308
Carbon	4309
Carter	4310
Cascade	4311
Chouteau	4312
change of boundaries with	
Teton	4362- 4368

GENERAL INDEX.

COUNTIES (Continued)

Boundaries and county seats (continued)	
Custer	4313
Daniels	4314
Dawson	4315
Deer Lodge	4316
Fallon	4317
Fergus	4318
Flathead	4319
Gallatin	4320
Garfield	4321
Glacier	4322
Golden Valley	4323
Granite	4324
Hill	4325
Jefferson	4326
Judith Basin	4327
Lewis and Clark	4328
Liberty	4329
Lincoln	4330
McCone	4332
Madison	4331
Meagher	4333
Mineral	4334
Missoula	4335
Musselshell	4336
Park	4337
Phillips	4338
Pondera	4339
Powder River	4340
Powell	4341
Prairie	4342
Ravalli	4343
Richland	4344
Roosevelt	4345
Rosebud	4346
Sanders	4347
Sheridan	4348
Silver Bow	4349
Stillwater	4350
Sweet Grass	4351
Teton	4352
change of boundaries with	
Chouteau	4362-4368
Toole	4353
Treasure	4354
Valley	4355
Wheatland	4356
Wibaux	4357
Yellowstone	4358
collection of taxes, when di-	
vided	4304
cost of surveys, how paid	4303
courses in defining	4394
directions	4295
disagreement, procedure on	4299
duty of code commissioner to	
define	5532
effect of act establishing	4359
established, how	4298
governor to determine, when	4300
meaning of terms	4296, 4297
publication in code of act es-	
tablishing	4361
report to governor on disagree-	
ment commissioners	4299

COUNTIES (Continued)

Boundaries and county seats (continued)	
surveys	
apportionment of cost	4303
to establish	4298
when conclusive	4301
township and range designa-	
tions	4360
validation of surveys	4302
Boundaries included in session	
laws	143
Bounties on predatory animals—	
See Bounties	2082-2087
Change of name	
assumption of indebtedness	4438
change in official records	4435
decree, transmission of	4434
how changed	4427
officers and salaries, effect on	4440
petitions	
by whom signed	4429
certificate of clerk	4431
comparison of signatures	4431
form of	4430
hearing and objections	4433
publication and posting	4432
where determined	4428
property under new name	4436
rights not affected	4437
suits, effect on	4436
terms of court	4439
Charges	
to be audited	4951
what are	4952
Chouteau, change of boundaries	
with Teton	4362-4368
Claims against	
See also Auditor, County	4824-4834
commissioners	
interest in contracts forbid-	
den	4606
verification of claims	4607
county officers not to present	4604
disallowance and appeals	4610
duty of clerk on appeal	4611
filing papers on appeal	4611
filing, when	4609
first class counties, allowance	
certain claims in	4608
investigation by auditor	4830
itemized	4605-4607
notice to county attorney	4611
recording claims	4831
unauthorized claims, when al-	
lowed	4608
verification of	4605
warrants, specification and pay-	
ment	4612
when to be presented	4605
Classification of	4741
designation of	4742
Clerk, county	
absent voters' law, duties con-	
cerning—See Elections	715-756
annual report	4814
bond of	466
where filed	508

GENERAL INDEX.

COUNTIES (Continued)

Clerk, county (continued)	
books, custody of.....	4795
chief deputy clerk.....	4876
clerk to county commissioners..	4459, 4727
duties as.....	4460
decrees of partition, recording	4801
record to impart notice.....	4802
deputy, salary.....	4873
duties	
fees to be indorsed on instru-	
ment.....	6896
generally.....	4811
imposed upon by Civil Code....	4813a
must file certificates of re-	
demption.....	9444
must keep attachment-books.	9293
to file contracts.....	7595
to keep register of partner-	
ship names.....	8022
duties concerning	
absent voters' law—See Elec-	
tions.....	715- 756
attachment of range-stock...	9299
births and deaths—See Vital	
Statistics.....	2539
bounty claims.....	3409
elections—See Elections	
equalization proceedings....	2121
initiative and referendum—	
See Initiative and Referen-	
dum.....	99- 108
instructions to voters, duty to	
prepare.....	607
licenses.....	2410- 2412
poll-tax.....	2279
recording certificates dis-	
charged soldiers and sailors	5654
recording instruments.....	4805
recording professional certi-	
ficates—See particular pro-	
fessions	
taxation—See Taxation	2156- 2168
endorsement of receipt of in-	
struments.....	4805
record of instrument.....	4806
ex officio recorder.....	4727
duties.....	4795
what to be recorded.....	4796
fees of.....	4917
for notarial certificate.....	397
for recording articles of water	
users' associations.....	4467
fees, report to state auditor....	4747
fees to be prepaid.....	4809
firemen's exemption certificates	5145
highway proceedings, entry in	
minutes.....	1621
indexes	
more than one in same volume	4804
to be kept by.....	4799
to maps and plats.....	4800
indorsement of recorded instru-	
ments by.....	4805, 4806
liability for neglect as recorder	4808
licenses.....	2410- 2412
map-book.....	4803

COUNTIES (Continued)

Clerk, county (continued)	
may take acknowledgments....	6906
notaries public, certificate....	396
fees for.....	397
other duties.....	4813, 4813a
practice of law forbidden.....	8869
receipt for money paid.....	4811
record of certain instruments	
declared proper.....	4797
record-books.....	4795
recording professional certifi-	
cates—See various professions	
records	
open to inspection.....	4810
safe-keeping of.....	4811
to be kept by.....	4796
report of	
annual.....	4814
finances.....	4814
reports to state auditor....	4747, 4748
salary.....	4867
salary of deputies.....	4873
searches to be made, when....	4807
validation of certain instru-	
ments.....	4797, 4798
verification signatures initiative	
and referendum.....	101
warrants numbered by.....	4812
Clerk of district court—See Clerk	
of District Court	
Commissioners, county	
actions by for support child	
from parents' estate.....	5842
advertising resources of county	
by.....	4470a, 4470b
annual examination of treas-	
urer's account.....	4613
apprentice poor children, when	5893
armories, location.....	1400
as county board of	
canvassers—See Elections	790- 808
equalization—See Taxation..	
.....	2113- 2121
auditing claims superintendent	
of schools.....	4949
blanks to be furnished assess-	
ors.....	2004
bond and approval.....	4466, 4455
liability on, for misconduct..	4520
of county officers, power to fix	467
bonds and warrants issued by	
—See subtitle finance	
books to be kept by.....	4461
bribery of.....	10943
bridges, duties concerning—See	
Highways.....	1703- 1714
burial of deceased soldiers and	
sailors.....	4536- 4541
calling elections to raise money	532
cemeteries, control of....	5172, 5173
cemeteries, establishment and	
conduct of.....	4514
chairman, member of jury com-	
mission.....	8896
chairman of board.....	4456
duties concerning insane—See	
Insane Asylum.....	1431- 1444

GENERAL INDEX.

COUNTIES (Continued)

Commissioners, county (continued)	
cities and towns, duties on organization—See Cities and Towns	4961- 4964
claims in favor of, how presented	4607
classification of lands for taxation by	2024- 2031
clerk	4459
duties of	4460
report of	4747, 4814
compensation	4464
composition	4452
contempt, power to punish for	4469
contract with state for confinement of convicts	12459
counsel, employment special, when	4486
county seats, duties concerning—See County Seats	4378- 4389
dams and reservoirs, examination of	2670
deputy county officers, power to fix number and salary	4874
duties—See subtitle powers as to county jail	12486
duty to provide detention homes	12297
election	
and term	4729
certificates, issuance of	4516
proclamation, duty to post	535
supplies, duty to provide	586, 598-611, 4515
elections, duties concerning—See Elections	
elector of county, must be	4453
equalization of taxes by—See Taxation	2113- 2121
examine reports of fees	4746
extension work in agriculture and home economics	4487
fees and mileage	4464
fees in criminal cases, limitation on	4932
ferries and wharves	
between counties, powers concerning—See Ferries	1766- 1782
cities and towns powers concerning	4478
establishment, when	4477
ferryman, appointment and bond	4480
joint ferries and ferryman	4479
property to be acquired	4478
rates of toll	4481
rules and regulations	4481
fire districts, establishment of	5148
fire wardens, appointment	5141
forest protection, by	4470
general permanent powers	4465
gophers, extermination of	4495- 4500
highways, powers concerning—See Highways	1622- 1634
insane persons, examination before	1431

COUNTIES (Continued)

Commissioners, county (continued)	
insect pest extermination	4501- 4508
inspection of official bonds	4744
interest in certain contracts prohibited	4606
jails at towns other than county seat	12467
liability on bond	4520
license account, examination	2414
maps, duty to provide for assessment or	2056
markets and market-houses	
establishment of	4488
expenses, how paid	4493
lands for	4489
maintenance of	4489
market master, powers	4490
percentage of sale paid to county	4491
purchase and resale or speculation	4494
rules and regulations	4492
when opened	4492
may appoint justices of peace, when	8838
may require prisoners in jail to labor	12484
meetings	
decorum, preservation of	4469
extra, when held	4462
must be public	4458
other meetings	4463
regular, when held	4462
sheriff, to attend, when	4469
special, how called	4457
members	
must be electors	4453
not to be interested in contracts	4606
minute-book	4461
money, borrowing of	4718- 4722
new counties—See subtitle new counties	4390
new townships, how organized	4468
not to be sureties on bonds	476
number of deputies, power to fix	4874
nurses, employment by	2506
oaths, administration of	4456
official bonds, amount of	4455
organization of new townships	4468
penalty for misconduct	4520
place fire-guards, when	6597
poll-books, duty to furnish	598
poor, care of—See Poor	4521- 4535
tax-levy for	4465
powers	4465
powers concerning	
bond issues	4465
county property	4465
elections	4465
equalization of assessments	4465
ferries	4465
finance	4465
licenses	4465
poor	4465

GENERAL INDEX.

COUNTIES (Continued)

Commissioners, county (continued)	
powers concerning (continued)	
printing	4465
public auctions	4465
public roads	4465
publication of proceedings	4465
purchase of property	4465
rules	4465
salaries of deputy officers	4874
school districts	4465
seal	4465
sick	4465
suits	4465
supervision of officers	4465
taxation	4465
to furnish information to	
highway commissioner	1786
townships	4465
vacancies	4465
printing contracts	4482
public scales	
capacity	4472
establishment	4471
public weigher	
appointment and bond	4473
duties	4473
penalty for false receipts	4476
receipts by	4475
rules and regulations	4475
statements by	4474
qualification of members	4453
questions of raising money, procedure	4717- 4722
railroad crossings outside of cities, powers concerning	6625- 6636
records	
by whom signed	4459
open to inspection	4458
publication of	4458
rewards, offering and payment	4483
road districts, duties concerning—See Highways	1652- 1675
road tax-levy by	1617
road-book	4461
rules for labor by jail prisoners	12485
rural improvement districts, authority concerning—See Rural Improvement Districts	4574- 4603
salaries of deputies, power to fix	4873
salary	4464
salary not paid until, when	4890
seed-grain and drought relief—See subtitle finance	4640- 4710
sessions—See subtitle meetings	
sheriff to attend meetings	4469
sheriff to report to, on jail	12487
special	
counsel, employment of	4886
elections, power to call	532, 536
meetings, how called	4457
stock inspectors	
compensation	4484
employment	4484

COUNTIES (Continued)

Commissioners, county (continued)	
stock inspectors (continued)	
not entitled to rewards	4484
secrecy regarding	4485
suits to recover money illegally paid by	4821
surveyor, employment, when	4847
tax-levy by	4465
treasurer, suspension, when	4768
vacancy, how filled	4454
vacation of plats and public places, when	5308, 5309
validation of sales by	4466
warrant-book	4461
water users' association, books to be furnished	4467
wharves—See subtitle ferries and wharves	4477- 4481
witnesses	
examination of, when	4518
fees not to be prepaid	4519
power to compel attendance	4517
subpoena, disobedience to	4518
Coroner—See Coroner	
Corporate body	4441
Corporate powers	
enumeration of	4444
how exercised	4442
limit of indebtedness	4447
restriction on loans	4445, 4446
service of process	4448
Costs	
against, how payable	9815
on change of place of trial	9104
on removal of criminal action before trial	4953
proceedings to collect	4954
County budget—See Budgets	224- 230
County clerk, salary	4867
County commissioners	
compensation of deputies, power to fix	4874
duties concerning burial deceased soldiers	4536
number of deputies, power to fix	4874
County seats	
enumeration of	4305- 4358
general laws applicable	4388
location of county seats	
county commissioners to meet and organize	4378
designation temporary county seat	4379
election on permanent location	4379
canvass of returns	4386
form of ballot	4385
general election laws applicable	4384
general laws applicable	4388
judges, ballots and records	4383
proceedings after petition	4380
re-election on failure to select	4387
registration and polling precincts	4381

GENERAL INDEX.

COUNTIES (Continued)

County seats (continued)	
location of county seats (continued)	
election on permanent location (continued)	
registration of voters.....	4382
special elections	4379
removal of county seats	
election	
how held	4371
on question.....	4370
petition	4369
place chosen to be county seat	4374
prohibition of second election	4376
publication of result.....	4373
removal again	4377
statement and notice of result	4375
submission to taxpayers.....	4370
voting for place of preference	4372
submission to special electors of question of locating	
permanent county seat.....	4389
election	4389
petition for	4389
registration and polling precincts	4389
Credit, restrictions on loaning....	4445
Defined	4293
Depositories county funds.....	4767
Disallowance of claims, appeals..	4610, 4611
Drought relief	
state may be defendant in actions to foreclose.....	9079
service of process on attorney-general	9080
Each constitutes senatorial district	42
Execution not to issue against....	4450
Exempt from payment of costs, when	9810
Expense of	
committing to reform school... 12504	
removal of prisoner to testify.. 12186	
transportation insane defendant 12219	
trial for escape from prison.... 10872	
witness outside of..... 12182	
Extra deputies, when appointed..	4878
Fairs	
appropriation for	4549
fair exhibits	4550
county commissioners may purchase grounds	4550
county fair commission	
appointment	4545
compensation	4548
duties	4546
organization	4547
secretary	4547
disbursement of funds.....	4550
erection of improvements.....	4550
exhibits, appropriation for....	4550
expense of transportation of exhibits	4550
fair commission, appointment and duties	4545
lands, acquisition of.....	4550
tax-levy for	4549

COUNTIES (Continued)

Farm bureaus	
articles, fee for filing.....	4544
incorporation of	4543
organization and purpose.....	4542
Fees of county officers—See Salaries and Fees.....	4864- 4950
Ferries, establishment of....	4477- 4481
Finance	
borrowing money	
ballots	
and voting	4722
contents	4720
fixing amount	4718
limitations on	4717
notice of election.....	4719
when loan authorized.....	4721
when submitted to voters....	4717
bridge construction bonds	
submission to electors.....	4712
contingent fund, creation and use	4632, 4633
drought and other relief	
application for relief	
approval by commissioners.	4701
contents	4700
authority county commissioners to provide.....	4680
construction in relation to seed-grain act	4711
construction of act.....	4710
county commissioners authorized to provide.....	4680
disapproval by commissioners	4705
disposal of moneys.....	4706
election, when required.....	4685
ballot	4689
conduct of	4687
judges	4688
proclamation and holding..	4686
registration of voters.....	4688
time of holding.....	4686
funds, designation of... 4706-	4709
limit of indebtedness.....	4684
meeting to consider.....	4682
procedure	4683
orders for relief, issuance of.	4702
penalty for disposal of supplies	4703
false swearing	4703
petitions for relief	
meeting to consider.....	4682
signature	4681
pro rata distributions.....	4705
promissory note to be executed	4702
terms of	4702
prosecutions	4704
purchase of supplies.....	4684
how made	4691
refunding bonds	
execution and registration.	4695
issuance of	4693
laws applicable to.....	4697
printing	4696
rate and terms.....	4694
refusal of relief, when.....	4702
relief furnished at cost.....	4705

GENERAL INDEX.

COUNTIES (Continued)

Finance (continued)

drought and other relief (continued)

relief furnished on approval of electors	4690
revision of adjustments	4705
special relief fund	4692
tax-levy to pay funding bonds	4699
when dispensed with	4707
tax-levy to pay warrants	4698
transfers from general to special relief fund	4708
transfers from special relief to general	4709
warrants in payment for	4692

duplicate warrants

how given	4628
indemnity to be given	4627
notice imparted	4629
when	4626

increased tax-levy for roads and bridges

4713- 4716

lost bond or warrant

duty of treasurer

4630

notice of redemption of bonds ..

4621

refunding bonds

cancellation of warrants	4619
disposal of proceeds	4617
exchange of	4617
form of execution	4615
limit on amount of	4614
notice of sale	4616
payment by treasurer	4623
printing	4620
record of	4624

redemption

fund for

4622

notice of

4621

term of

4614

validation of

4618

when issued

4614

seed-grain relief

See also under subtitle finance,

drought and other relief

applicable, when

4640

application for seed-grain

4659

contents

4659

examination and approval ..

4660

ballots on election, form of ..

4648

construction of act

4676

contract — See subtitle seed-

grain

county clerk to issue order ..

4661

delinquent tax, cancellation

of penalty

4678

election

ballots, form of

4648

judges

4647

laws applicable to

4646

proclamation and notice ..

4645

when required

4644

who may vote

4647

extension of time for payment

.....4677, 4678

findings and minutes

4638

foreclosure of lien

4663

COUNTIES (Continued)

Finance (continued)

seed-grain relief (continued)

funding bonds

denomination, interest and terms

4694

form and execution

4654

laws applicable

4656

interest and terms

4653

issued, when

4652

printing

4655

registry

4654

furnishing at cost

4671

limit to one person

4660

limitation of indebtedness ..

4643

meeting to consider

4641

notice of

4641

minutes of board

4642

order granting

4642

payments, extension of time..

.....4677, 4678

penalties for violation of act..

4668

penalty for failure to pay...

4679

petition for

4640

pro rata distribution of

4670

prosecutions for violation of

law

4668

purchase and furnishing

4643

purchase on approval of elec-

tors

4649

quantity and price

4650

seed-grain

contract

execution of

4661

filing of

4662

lien of

4662

satisfaction of

4665

disposal of money collected

duty to market crop and

make payments

4666

foreclosure of lien on

4663

furnishing at cost

4671

lien on crop

4667

order for delivery

4661

penalty for disposing of

crop

4667

purchase of

4649, 4650

sale under execution, when

sheriff to seize grain, when

4670

4669

seed-grain fund

4651

tax, collection of

4664

tax-levy

to pay bonds

4658

to pay warrants

4657

when dispensed with

4673

to whom furnished

4643

transfer of funds from gen-

eral to bond fund

4674

transfer of seed-grain fund to

general

4675

violation of act, misdemeanor

warrants for

4671

when issued

4651

tax-levy for road and bridge

construction

4713- 4716

extra levy, how authorized ..

4714

teachers' institute and summer-

school fund

1110

GENERAL INDEX.

COUNTIES (Continued)

Finance (continued)	
transfer of funds, when.....	4631
validation of	
certain bonds	4634, 4635
highway elections and bonds.	4638, 4639
highway warrants	4636, 4637
warrants, interest from date of	
indorsement	4625
warrants to be numbered.....	4812
Fiscal year defined.....	518
Free libraries	
acceptance of property of school	
libraries	4569
bond of librarian.....	466
bonds for buildings.....	4568
disestablishment, procedure....	4572
employees and apprentices.....	4566
establishment, procedure	4563
free public libraries, contracts	
with	4573
librarian	
appointment and qualifications	4565
compensation, duties and oath	4567
library fund	4568
school libraries	
as branches of	4570
funds of, delivery, when....	4571
stations	4566
supervision of	4566
tax	4568
withdrawal incorporated cities.	4564
Funds	
contingent fund	4632
surplus of	4633
transfer of, when.....	4631
Health boards, liability for ex-	
penses	2470
Health officer	
appointment, powers and duties	
.....	2473- 2483
attendance on county poor....	4527
Indebtedness, limit on.....	4447
Insurrection, proclamation....	11666, 11667
Interest on county warrants.....	4625
Jails at county seats.....	12466
towns other than county seats..	12467
Judgments against, how paid....	4450
Jurors, competency when county	
involved	4449
Liability for value slaughtered	
livestock	3271
Libraries—See subtitle free libra-	
ries	
Loans, restrictions on.....	4446
Markets and market-houses—See	
subtitle commissioners....	4494
Money—See subtitle finance	
Moneys	
duties of treasurer concerning..	4750
illegally paid, recovery.....	4451
Name	
and designation	4443
change of—See subtitle change	
of name	4440
Need not give bond, when.....	9829

COUNTIES (Continued)

New counties	
records, transfer on creation	
new county	4421
new county to pay proportion-	
ate cost	4421
to what representative district	
attached	47
New counties, creation by petition	
assessed valuation, how fixed..	4391
certificate of election of officers	4395
chattel mortgages, etc., delivery	
to new county clerk.....	4402
cities and towns, eligibility for	
county seat	4392
commission to adjust indebted-	
ness	4397
commission to fix division lines	4390
compensation of commissioners	4399
copies of proceedings, certifica-	
tion of	4400
creation of, procedure.....	4390
area of	4390
assessed valuation of new and	
old county	4390
lines, how drawn.....	4390
surveyed land in.....	4390
delinquent taxes, regulation of.	4398
district court actions, transfer.	4403
effect of act.....	4407
election on establishment	
ballot, form of.....	4394
designation temporary county	
seat	4394
general election laws appli-	
cable	4394
nomination of candidates....	4394
proclamation and notice....	4394
qualifications of voters.....	4394
registration and transfers....	4394
returns and canvass.....	4394
expense of commissioners.....	4399
general laws applicable to.....	4388
house of representatives, mem-	
ber in	4405
indebtedness, adjustment of....	4397
ascertainment of amount....	4398
judicial district, proclamation	
by governor	4396
jury-lists	
duty of clerk.....	4423
of new county.....	4426
how certified	4422
removal of names.....	4425
when made	4424
liability for share of debts....	4390
nomination of candidates.....	4394
officers	
duties and term.....	4396
election of	4396
filing declaration	4396
qualifications and oath.....	4396
quarters for	4395
organization of county commis-	
sioners	4397
penalty for official misconduct	4406
percentage of votes to create..	4395

GENERAL INDEX.

COUNTIES (Continued)

New counties, created by petition (continued)	
petition for creation	
bond for costs.....	4393
contents of.....	4393
hearing proof.....	4393
notice of hearing.....	4393
proceedings on.....	4393
resolution on final hearing...	4393
segregation of territory.....	4393
signatures to.....	4393
withdrawal of	4393
petition for exclusion of territory	4393
proceedings when findings justify creation.....	4394
publication by posting.....	4404
renewal of proceedings, when forbidden	4395
resolution creating.....	4395
filing of.....	4395
when effective.....	4395
road funds, adjustment of....	4401
saving clause.....	4407
school	
district divided to be joint districts	1038
fund, adjustment of.....	4401
trustees, tenure of office....	4396
senate, representation in....	4405
settlement between old and new county	4398
taxes, assessment and collection	4400
taxes, delinquent, how settled..	4398
transcription of records.....	4402
transfer of pending actions....	4403
valuation of property, how ascertained	4398
New counties, preparation of jury-lists	4426
New counties, transfer of records and actions	
certificate of transcript....	4412, 4415
county commissioners to have records transcribed....	4409, 4410
payment for.....	4411
new county entitled to records.	4403
records to be transcribed.....	4408
transcribed records as evidence to be filed.....	4414, 4413
transfer of actions affecting real estate.....	4415
fees of clerk.....	4417
jurisdiction of court.....	4416
transfer of books and records, maps and plats.....	4421
transfer of records when territory detached from county or city.....	4418
apportionment of indebtedness and credits.....	4419
collection of taxes in.....	4420
Officers	
absence from state, when permitted	4739
appointment of assistants, how made	4732

COUNTIES (Continued)

Officers (continued)	
attendance before county commissioners	4519
attorney—See subtitle attorney, county	4819- 4823
auditor—See subtitle auditor, county	4824- 4834
bonds of, where designated....	4743
civil liability of bondsmen.....	4737
classification of county.....	4741
clerk of district court—See subtitle clerk of district court.. ..	4815- 4818
consolidation of.....	4727
coroner—See subtitle coroner.. ..	4848- 4857
deputies	
affidavit to be filed by.....	4891
appointed, how.....	4732
county commissioners to fix pay of.....	4874
extra, when appointed.....	4878
number allowed.....	4872, 4875
officers not to act as, when..	412
power to appoint.....	4731
powers of.....	4733
salaries	4873
duplicate fee receipts, filing...	4889
duty to complete business.....	4905
duty to report fees.....	4745
elected, when.....	4728- 4730
eligibility of.....	4723
enumeration	4725
fees payable	
for publication of notice....	4898
in advance.....	4892
into treasury.....	4864- 4887
none for naturalization.....	4894
statement of.....	4888
when not to be charged.....	4893
when received for own use..	4865
folio defined.....	4899
forfeiture by absence from state	4739
liability for excessive fees....	4897
mileage of all officers.....	4884
must give items and receipts for fees.....	4895
name includes deputies.....	4733
oaths, administration of.....	4738
office	
at county seat.....	4735
declared vacant, when.....	4911
hours	4736
official bonds	
classification for purpose of fixing	4741
enumeration of.....	466, 467
inspection of.....	4744
liability on.....	4737
where regulated.....	4743
penalty for	
failure to pay over fees....	4907
false oath.....	4906
false report.....	4908
violation of act.....	4749

GENERAL INDEX.

COUNTIES (Continued)

Officers (continued)	
practicing law prohibited.....	4740
qualifications for	
county officers.....	4723
district and township officers	4724
removal for collecting illegal	
fees.....	4911
report of fees.....	4745
salaries and fees of—See Sal-	
aries and Fees.....	4867- 4950
sheriff—See Sheriff.....	4773- 4794
statement of fees collected....	4888
to be posted in public offices.	4896
superintendent of schools—See	
Schools, Public.....	950- 980
surveyor—See subtitle sur-	
veyor, county.....	4838, 4839
table of salaries.....	4867- 4871
tender of costs to officers for	
publication.....	4898
term of office.....	4728
township officers	
enumerated.....	4726
qualifications of.....	4724
treasurer—See subtitle treas-	
urer, county.....	4750- 4773
vacancies, how filled.....	4734
vacating office for receipt of	
illegal fees.....	4911
when not to be appointed dep-	
uties.....	412
Payment of attorney appointed	
to defend.....	11887
Payment of cost-bill in fish and	
game prosecutions.....	3754
Political divisions.....	41
Poor—See Poor.....	4521- 4535
Powers	
how exercised.....	4442
of.....	4444
Printing	
charges for.....	4482
contracts for.....	4482
Process, how served on.....	4448
Public moneys, wrongful acts....	11318
Reference to law governing.....	41
Refunding bonds—See subtitle	
finance	
Removal of county seats.....	4369- 4377
Representatives, number of.....	45
Scales, establishment by....	4471- 4476
Senatorial districts.....	42, 43
Service of process on, how made..	4448
Smoke nuisance, control by coun-	
ties and cities—See Cities and	
Towns.....	5289- 5299
State examiners' fund.....	221
Statistics, preparation and dis-	
tribution by.....	4470b
Summons, service on.....	9111
Survey of disputed lands in two	
counties.....	4841
Surveyor, county	
appointment of disinterested	
surveyor, when.....	4844
assistants, employment, when..	4843

COUNTIES (Continued)

Surveyor, county (continued)	
authority to increase indebted-	
ness.....	4836
bond of.....	466
chairman of road supervisors..	4845
duties	
and compensation as road	
builder.....	1622
of.....	4836
under state highway commis-	
sion.....	4836
fees of.....	4921
inspection of road work.....	4845
interest in contracts forbidden	4846
must make map of election pre-	
cincts.....	548
office and equipment to be fur-	
nished.....	4838
other surveyors employed, when	4847
qualifications.....	4835
supervision by county commis-	
sioners.....	4836
surveys	
disputed county lands.....	4841
duty to make.....	4839
how run.....	4842
lands in two counties.....	4840
record of.....	4839
record, preservation of.....	4837
Taking prisoners from one to an-	
other, before court.....	12432
Territory detached from	
apportionment of indebtedness	4419
collection of taxes in.....	4420
Teton and Chouteau, change in	
boundaries	
apportionment of indebtedness,	
how.....	4363
certain officers to continue....	4368
compensation county clerk....	4366
delinquent taxes, transmission	
to county commissioners Te-	
ton.....	4364
description.....	4362
money of school district to be	
paid.....	4365
payment transcription records..	4366
settlement between counties...	4363
transfer pending actions.....	4367
To provide accommodations for	
jury.....	12009, 12010
Townships how organized.....	4468
Transfer of funds.....	4631
Treasurer—See Treasurer, County	
.....	4750- 4772
duties concerning taxation—See	
Taxation.....	2256- 2267
Verification of pleadings.....	9163
Warrants	
See also subtitle finance	
See also Treasurer, County.....	4750- 4772
annual examination of, by	
board.....	4613
endorsement by treasurer, when	4625
how paid.....	4752
interest rate.....	4625
lost warrants.....	4626- 4630

GENERAL INDEX.

COUNTIES (Continued)

Warrants (continued)	
numbering of.....	4812
registry of.....	4612
specification and payment.....	4612
Wharves, establishment of.....	4481
Witnesses and jurors, competency, when county a party.....	4449

COUNTS

In indictment or information....	11847
----------------------------------	-------

COUNTY APPRAISING OFFICERS—See Counties

COUNTY ASSESSOR

See Counties, subtitle assessor	
See also Taxation.....	2001- 2047

COUNTY ATHLETIC COMMISSION

Application for license, how made	4554
Bond required of clubs.....	4560
Buildings, how equipped.....	4555
Conditions governing bouts.....	4556
Disposal of funds.....	4559
Establishment on petition, how..	4551
Exhibitions, how regulated and licensed	4554
Fake contests	
penalty for.....	4557
participating in.....	4553
License, when granted.....	4560
Organization	4552
Penalty for	
delinquencies	4561
violation of act.....	4562
Physical examination of contest- ants	4556
Powers to license clubs.....	4554
Report of contests to commission	4559
Rules	4552
Seal	4552
Secretary	
appointment and salary.....	4552
duties	4553
Support of home for disabled sol- diers	4559

COUNTY ATTORNEY

Abatement of public nuisances by, when	11123- 11133
Attendance on grand jury.....	11829
Bond	466
Comment on defendant's failure to testify.....	12177
Deputies	
number of.....	4880, 4881
salary	4873
Destruction of obscene literature	11139
Disclosing finding of indictment..	10946
Drug addicts, duties concerning..	3195- 3198
Duties generally.....	4819
Duty	
as to	
branding of livestock while driven through state.....	11547
enforcement of fire laws....	2785

COUNTY ATTORNEY (Continued)

Duty (continued)	
as to (continued)	
lotteries	11155
protection of motormen.....	3063
recovery of moneys illegally paid	4451
violation of vital statistics act	2539
in juvenile cases.....	10469
on insanity of defendant after judgment of death.....	12096
prosecution for gambling.....	11169
of undertaking to keep the peace	11648
prosecution unlawful use of fire- arms by children.....	11566
to	
explain reason for failure to file information.....	11803
file information, when and where	11801, 11802
inquire concerning public of- fenses	11802
investigate and prosecute vi- olations of prohibition law..	11109-11115
prosecute charge of bastardy	12271
Failure to file information, con- tempt	11801
prosecute, court may appoint..	12007
Filing of information, when.....	11626
Former holder of office not to de- fend, when.....	8985
penalty for violation of act....	8987
Information, duty to file, when..	11626
Intoxicating liquors, duty con- cerning—See Intoxicating Liquors	11048-11133
Legal adviser	
county commissioners.....	4820
school officers.....	1328
May	
appear before grand jury, when	11829
issue subpoena.....	12179
subpoena witnesses without ten- der of fee.....	4902
Not to disclose filing of informa- tion, when.....	11867
Not to present claims against county	4822
Notice to, of arrest of fugitive from other state.....	12423
Other duties.....	4823
Partner not to act, when.....	8984
Procedure on failure to attend trial	12007
Register of business.....	4819
Removal from office, procedure..	11701
Report of money.....	4819
Salary	4867
Salary of deputies.....	4873
Signing of indictment.....	11838
Special counsel, when employed..	4486
Statement to governor on appli- cation for pardon.....	12260
Suits to recover money, when....	4821
Treasurer to sue, when.....	4763

GENERAL INDEX.

COUNTY AUDITOR

See Auditor, County.....4824- 4834
Salary 4867

COUNTY BOARD OF HEALTH

See Health, County Board of....
.....2473- 2483
Powers concerning destruction of
confiscated liquor—See In-
toxicating Liquors.....11048-11133

COUNTY CLERK—See Counties, subtitle clerk, county

COUNTY COMMISSIONERS—See Counties, subtitle commissioners

COUNTY CORONER—See Coroner

COUNTY FAIRS—See Counties, subtitle fairs

COUNTY FARM BUREAUS—See Counties, subtitle farm bureaus

COUNTY FREE LIBRARIES—See Counties, subtitle free libraries

COUNTY HIGH SCHOOLS—See Schools, Public

COUNTY JAILS

See Jails.....12466-12487
Used by state prison, when..... 12459

COUNTY LIBRARIAN

See Counties, subtitle free li-
braries
Bond of librarian..... 466

COUNTY OFFICERS

See Counties, subtitle officers
Exemption from jury duty..... 8893
Fees of..... 4867
Moneys belonging to, may be at-
tached 9294

COUNTY PRINTING—See Counties, subtitle printing

COUNTY SEATS

See Counties, subtitle county seats
Of the several counties—See Coun-
ties4305- 4360
Removal of, publishing election
returns 4373

COUNTY SUPERINTENDENT OF ROADS AND BRIDGES

Appointment and powers..... 1653

COUNTY SUPERINTENDENT OF SCHOOLS

See Schools, Public.....950- 980

COUNTY SURVEYOR—See Coun- ties, subtitle surveyor

COUNTY TREASURER—See Treas- urer, County

COURT OF IMPEACHMENT

Jurisdiction 8787
Officers 8788
Trials, how regulated..... 8789
What constitutes..... 8786

COURT REPORTER—See Stenog- raphers8928- 8935

COURT-MARTIAL

See Militia.....1384- 1397
Authority not affected by code... 10717

COURTESY

Estates by, abolished..... 5812

COURTS

For provisions relating to specific
courts see main titles—Su-
preme Court, District Courts,
Justice Courts
Abbreviations used in..... 8881
Acts constituting contempt of... 9908
Adjournment—See Adjournment
Amendments, power to allow.... 9187
Appoint to perform duties of
county attorney, when..... 12007
Assess punishment, when...12028-12030
Business, when transacted..... 8849
Calendar, order of entry of causes 9330
Change in place of holding, when
and how made..... 8854
Charge to jury, when and how
given 9349
Commitment of girls to vocational
school, procedure.....12535, 12536
Contempts—See Contempts..9908- 9921
Continuance of causes until jury
in attendance..... 8902
Costs—See Costs
Criminal contempt of..... 10944
Deposit in court—See Deposit in
Court9308- 9310
Destruction of gambling devices.. 11167
Directed verdict, when ordered.. 9364
Duty to assign counsel for defend-
ant, when..... 11886
compensation of attorney, how
fixed 11887
Duty to determine degree of crime,
when 12056
Enumeration of..... 8784
Exclusion of public from, when.. 8848
Extension of time by, when..... 9823
False report of proceedings..... 10944
Judgments, power to relieve
against 9187
Jurisdiction, how made effective 8882
Justice courts, procedure in—See
Justice Courts.....9619- 9724
See Justice and Police Courts
.....12302-12347
May
adjourn, absence of jury..... 12016
advise jury to acquit, when... 11995
allow answer to merits, when... 9187
direct trial of issues, how..... 9328
extend time for answer or judg-
ment, when..... 9187

GENERAL INDEX.

COURTS (Continued)

May (continued)	
order new trial jury when another jury empaneled, how...	9340
order sheriff to furnish room for jury	12009
require attorneys to show authority	8994
Means necessary to exercise powers conferred.....	8882
Must pass sentence, when.....	10718
Nonjudicial days	
defined	8850
powers to transact business on.	8850
Occurrences on nonjudicial days, effect of.....	8851
Of justice defined.....	8784
Of record.....	8785
Police Courts—See Police Courts	9725- 9728
See Justice and Police Courts.....	12302-12347
Power	
of courts generally.....	8844
to	
administer oaths.....	8844
amend process.....	8844
compel obedience.....	8844
control proceedings.....	8844
make rules.....	8845
preserve and enforce order..	8844
punish contempt.....	10717
vacate judgments taken through mistake, surprise, etc.	9187
Powers in absence of jury.....	9357
Prisoners, how produced before...	12432
Proceedings to be in English language	8880
Punishment, power to reduce.....	12031
Question of law addressed to.....	10699
Rules, courts of record may make, when	8845
judges guilty of contempt, when	8845
Rules, when effective.....	8846
Rulings deemed excepted to, when	9837
Seal affixed to what.....	8861
Seals, what courts have.....	8857
Sittings	
may be private, when.....	8848
to be public, when.....	8847
Stenographers — See Stenographers	8928- 8935
Subsequent application to, for orders forbidden, when.....	8877
violation a contempt.....	8878
To appoint time for pronouncing judgment	12055
decide questions of law, when	12001-12004
Vacancy not to affect proceedings	8879
When held.....	8849

COURTS OF JUSTICE

Enumerated	8784
When held.....	8849

COURTS OF RECORD

What are.....	8785
---------------	------

COUSINS

Marriage of, prohibited.....	5699
------------------------------	------

COVENANTS

Against encumbrances, breach of, damages, measure of.....	8671
Apportionment	7423
Authority of agent to make.....	7954
For benefit of property.....	7418
For quiet enjoyment, breach of, damages, measure of.....	8670
For quiet enjoyment, when implied.	7732- 7751
Implied from use of word "grant," enumeration of.....	6874
In agreement to sell real estate, form of.....	7590
In agreement to sell real estate, usual	7589
Of right to convey, breach of, damages, measure of.....	8670
Of seizin, breach of, damages....	8670
Of warranty, breach of, damages, measure of.....	8670
Running with the land	
definition of.....	7416
when assigns are named.....	7420
who bound by.....	7421
who not bound by.....	7422
To pay rent, etc.....	7419
What run with the land.....	7417

COVERTURE

No defense in action for forcible entry and detainer.....	9892
---	------

COWS

See Livestock	
See also Dairies and Dairy Products	
Keeping in unhealthy place, punishment	11513

COYOTES

See Bounties.....	3407- 3417
-------------------	------------

CREAMERIES

See Dairies and Dairy Products..	
.....	2620- 2640
Duty to register location.....	3569
Licensed by livestock sanitary board	3282

CREDIBILITY

Of witnesses.....	10672
See also Witnesses	

CREDIT

False statement, to obtain, penalty	11408
Loaning of county credit forbidden	4445
Writing necessary to charge third person	10614

CREDIT, LETTERS OF

See Letters of Credit.....	8210- 8218
----------------------------	------------

CREDITORS

See Debtor and Creditor.....	8598- 8606
Assignment for benefit of—See Assignments for Benefit of Creditors	8612- 8641
Conveyances to defraud....	11432-11435

GENERAL INDEX.

CREDITORS (Continued)

Costs of support of debtor when imprisoned	9886
Of estates	
execution on judgment	10313
how paid	10309
may	
administer estates, when	10068
apply for order of sale	10219
sue to recover property fraudulently conveyed, when	10265
notice to	10149, 10170
presentation of claims	10175
suit to recover estates, how	10266
when bequest to executors is not valid as against	10134
Partner may compromise, effect	9768
Preferred, who are	8351, 8354

CRIME

Accessories to, defined	10733
Act and intent	10726
Classification of	10722
Commission under threats	10729
Compounding	10931
Compromise, when permissible, when not	12220, 12222
Criminal negligence	10726
Definition	10721
Degrees, of what defendant may be convicted under information	11868
jury to find	12022
Divided, how	10722
Drunkenness no excuse	10728
Forfeitures abolished	11605
How prosecuted	11607, 11798
Intent, how manifested	10727
Lawful resistance	11632
Parties to	10731
Persons capable of committing	10729
Principals	10732
who are	10732
Prosecution, agreement to abstain from	10931
Punishment—See Punishment	
Resistance, by whom and to what extent	11633, 11634
Union of act and intent to constitute	10726
Who capable of committing, who not	10729

CRIME AGAINST NATURE

Act constituting	11031
Punishment for	11030

CRIMINAL ACTIONS

Conviction, how had	11614
Defendant, who is	11610
Defined	11608
Dismissal of, when—See Dismissal	12223-12229
Gambling devices, for destruction of	11167
How commenced in justice or police court	12302
How prosecuted	11609
in district courts	11622
in justice courts	11621

CRIMINAL ACTIONS (Continued)

How set for trial	11940
In justice and police courts, how prosecuted	11621
Parties to	11609
Prosecution by information, when	11623
Rights of defendant	11611
Rules of evidence applicable	11977
Rules of pleading—See Pleadings	11841-11874
Second prosecution prohibited	11612
Time of commencement—See Limitations of Actions	11722-11727
Undertakings, actions on	12164
Witnessing against self not compelled	11613

CRIMINAL CONSPIRACY

See also Restraint of Trade	10901-10915
Defined	10898, 10899
Overt act, when necessary	10900

CRIMINAL CONTEMPTS

What constitute	10944
---------------------------	-------

CRIMINAL LIBEL

Acts constituting	10800
-----------------------------	-------

CRIMINAL NEGLIGENCE

When necessary to crime	10726
-----------------------------------	-------

CRIMINAL OFFENSES

Abandonment and neglect of wife and children	11017-11022
Abduction of women	11004
Abortion	11023
Absent voters	
failure to furnish information concerning	738
law, official misconduct	732
Abstracters of life insurance policies, violation of act concerning	173
Abstracters of title, violation of law	4146
Abuse of teachers	1082, 11527
Accepting favors from railroads	3813
Acting as public officer without qualifying	10821
Adding to or subtracting from votes	10755
Adulterated candies, sale of	11265
Adulterated food, drugs and liquors forbidden	11241
Adulteration of drugs	3184
Adultery	11006
Advertisements of cures of venereal diseases prohibited	11144-11147
Advertising to	
procure divorce	11564
produce miscarriage	11142
Agents foreign corporations punishable, when	11455
Agricultural seed inspection act, violation of	3596
Aiding	
apprentices to run away	11520
or abetting escapes from industrial school	12510, 12511
suicide	11261

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Alien gun license, violation.....	3709
Altering	
brands	11211
telegraphic messages.....	11495
Appeals to supreme court under	
mothers' pension act.....	10487
Apples, sale of, in violation of law	4272
Appropriation waters from adjudicated streams, violation of act concerning.....	7126
Arms, militia selling or retaining	11332, 11333
Arrests, making without authority	10921
Arson—See Arson	
Assaults—See Assaults.....	10976-10980
by public officers under color of authority	10929
Assisting prisoners to escape.....	10870, 10871
Assumption of public office without right	10821
Attachment of dead body.....	11037
Attempts	
to escape from state prison....	10867
to wreck railroad train...11469-11471	
Attorneys-at-law	
giving consideration for business	8981
exceptions	8982
rule when party prosecutes in person	8983
misconduct by.....10938-10940	
professional misdemeanors, punishment for.....	8987
punishment for deceit or collusion	8978
Auctioneer	
acting as, without authority... 11329	
failure to record sales of stock	11541
overcharges by.....	4156
Automobiles, possession when parts have been removed....	11479
punishment for selling or disposing of.....	11480
Automobiles, use without owner's consent	11478
Ballots	
forging returns.....	10754
marking	10753
Bank	
act, violation of.....	6086
examiner, failure to perform duties	6106
officers, failure to aid state examiner	211
Banks	
and banking act, violation of..	6054
failure to pay examiner's fees	222
false statements in reports of.	6077
officer overdrawing account....	11442
penalty for making or receiving deposits when insolvent.6081, 6082	
receiving deposits when insolvent	11443
Barbed-wire fences, broken.....	11557
Barber business, conducting on Sunday	11040, 11041

CRIMINAL OFFENSES (Continued)

Barberry, violation of act concerning	3607
Barratry	10936
Beaverhead fish and game preserve, violation of act concerning	3776
Betting on elections.....	10767
Bigamy	11025-11027
Bill of lading, issuance of fraudulent duplicate.....	11462
Billiard and pool-halls, permitting minors to enter.....	11191
violation of law governing.....	11188-11192
Blacklisting	3093, 11219
Blackmail, acts constituting....	11397
Board of examiners, violation of laws concerning	11331
Boarding-houses, compulsory, forbidden	11223
Boiler	
certificate, false.....	2722
explosions, negligence.....	11229
inspector, false certificate of...	11198
Boilers	
operation without certificate of inspection	2714- 2719
removing inspector's seal from.	2718
sale of second-hand.....	2729
Bounty law	
issuance of false certificates... 3409	
perjury and forgery.....	3416
Boxing or wrestling-matches....	11296
Branding cattle running at large.	11553
Brands	
alteration forbidden.....11211	
criminal statutes, regulating use of	11542-11548
sash or frying-pan, use of....	11554
violation of act concerning recording	3306
Bread, violation of law regulating	4276
Bribery	
judges, jurors and referees....	10853
members of the legislature—See Legislative Assembly...10838-10852	
members of political convention	10764
of voters.....	667
public officers.....	10842
school officers.....	10862
telegraph operators.....	11519
Bribes, receipt of, by executive officers	10824
receipt of, by judicial officers.	10854
solicitation by judicial officers.	10855
Bribing boards of county commissioners	10943
Bribing witnesses.....10896, 10897	
Bridges, dams and reservoirs, malicious destruction of.....	11487
Bringing armed men into state... 11315	
Building and loan association act, violation of.....	6373
Bulk sales act, false statements..	8609
Bulls running at large, violation of act concerning.....	3405

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Burglary—See Burglary.....	11346-11353
Burning	
buildings, when not arson.....	11476
forest material without permit	2765
of insured property.....	11426, 11427
Buying appointments to office....	10829
Camp-fires, negligent control of	
.....	11500-11502
Carcasses, leaving near dwelling..	11532
Carriers, issuing fictitious bills of	
lading	11459
Carrying concealed weapons—See	
Weapons	11302-11309
Carrying deadly weapons with in-	
tent to assault.....	11354
Carrying on business without li-	
cense	11328
Casing oil and gas wells.....	3549
Catching fish in violation of law.	
—See Game and Fish	
Cattle, driving from customary	
range	11549
Cement dealers' license tax, viola-	
tion of act concerning.....	2379
Certificates of nomination, alter-	
ing or forging, penalty.....	10758
Certifying checks without money	
to credit of drawer.....	6063
Cheats in assaying.....	11420
Child labor law, violation of.....	3100
Children	
cruelty to.....	11022
desertion or abandonment of...	11020
disposing of, for mendicant*oc-	
cupations	11021
employment under sixteen.3095,	3096
fraudulent pretenses relative to	
birth of.....	10934
substituting one for another...	10935
Chiropractic practice without li-	
cense	3153
City manager plan of government,	
publication of candidates' ex-	
penses	5418
Clerk of school district, failure to	
report persons eligible to en-	
ter school for deaf and blind.	1465
Coal	
dealers' license tax, violation of	
act concerning.....	2342
mine act, violation of.....	3545
mines' license tax, violation of	
act	2325
slack, deposit in streams. 11276,	11277
Combinations in restraint of trade	
.....	10901-10915
Commission form of government	
offenses by officers.....	5389
violation of primary election	
law	5379
Commission merchants, violation	
of act.....	4185
Commission-manager plan of gov-	
ernment, violation of act....	5428
Communication with convicts....	10949
Compounding crimes.....	10931
Concealment of person entitled to	
habeas corpus.....	11217

CRIMINAL OFFENSES (Continued)

Conducting water across high-	
ways, violation of act.....	7112
Confidence games.....	11411
Connivance at escapes from voca-	
tional school for girls.....	12543
Consignee, false statement by....	11415
Contempt of injunctions to en-	
force forest fire law.....	2768
Contributions by life insurance	
corporations for political pur-	
poses	6285
Convicts, unauthorized communi-	
cation with.....	10949
Co-operative association act, pen-	
alty for violating.....	6396
Corporations	
accepting stock subscription	
notes not issued to corpora-	
tion	5968
fraud in management of—See	
Corporations.....	11436-11458
noncompliance with law by	
agents	11456, 11457
refusing to permit inspection of	
books	11447
Corrupt	
conduct of jurors.....	10857
lobbying	10846
practices act, violation of—See	
Corrupt Practices Act. 10773-	10820
practices as to legislators.....	10852
Counterfeiting—See Forgery and	
Counterfeiting	11355-11367
of trademarks.....	11208
County attorney, failure to en-	
force forest fire law.....	2768
Crime against nature.....	11030, 11031
Criminal conspiracy.....	10898, 10899
contempts	10944
syndicalism	10740-10742
Cruelty to animals—See Cruelty	
to Animals	11508-11515
children	11022
lunatics	11214
Cutting state timber.....	11507
Dairy law, violation of.....	2631
Dairy products, monopoly discrim-	
ination in purchase.....	2630
Dams and reservoirs, violation of	
laws concerning.....	2671, 11280
Dead	
animals, disposal, where forbid-	
den	11235
bodies, offenses respecting—See	
Sepulture	11032-11038
failure to bury.....	11035
Deadly weapons, exhibition and	
use of.....	11299
Death from mischievous animals,	
punishment of owner.....	11260
Deceiving witnesses.....	10892
Defacing	
log-marks	11210
public buildings.....	11506
tombs or monuments.....	11038
Defendants concealing property..	10933
Defined	10721
Defrauding by false pretenses...	11410

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Defrauding hotels or lodging-houses	7684
Delay in taking prisoner before magistrate	10920
Delayed trains, violation of act concerning notice.....	6585
Delivery of unauthorized poll-tax and other receipts.....	11325
possessing unauthorized blank receipts	11326
Delivery of uninspected nursery stock	3618
Dentistry, violation of law concerning	3115
Depositing slack in streams.....	11277
Desertion of children.....	11020
Destruction of	
ballots, etc.	10749-10758
dams and canals.....	11487
election supplies.....	10760
evidence	10894
evidence sex of deer, misdemeanor	3698
fences	11485
land-marks	11484
records	10874
by officers.....	10873
Disclosing	
contents of telegram.....	11494
finding of indictment.....	10946
indictment before arrest.....	11867
Discrimination in charges by railroads	6571
Diseased animals permitted to run at large.....	11556
carcasses, sale of, forbidden...	11243
Disinterment of bodies for dissection	11033
Disposition of children for mendicant purposes.....	11021
Disturbance of	
electors	10766
public meetings.....	11284
public schools.....	1083
Disturbing	
legislative assembly.....	10835
religious meetings.....	11042
the peace.....	11297
Ditches, permitting to overflow highways	11531
Divided, how.....	10722
Dogging livestock.....	11552
Driving	
animals on sidewalks.....	11504
cattle on railroads.....	11555
over bridges faster than a walk	11252
Drought relief act, violation of..	4704
Druggists, omission to label drugs	11238
Drugs, wrongful compounding and sale	3181
Duels—See Duels.....	10981-10987
Education of deaf and blind children, violation of law...1465-	1467
Eggs, violation of act concerning	2639
Eight-hour law	
penitentiary guards.....	12442
violation of.....	3080

CRIMINAL OFFENSES (Continued)

Election	
frauds	10747
frauds and offenses—See Election Frauds and Offenses...	10747-10772
See also Corrupt Practices Act	10773-10820
judges, failure to comply with law	611
wagers	10767
Electric lines, interference with	11473
Electrical construction act, violation of.....	2709
Elk, violation of act concerning..	3696
Embezzlement by public officers..	11318
what constitutes.....	11318
Embracery	10858
Employees, protection on discharge	11219
false representations to procure labor	11220, 11221
Employers requiring release of liability	11402
discounting wages of employees.	11403
Employment agencies, violation of act	4172
Employment of children	
during school term.....	1136
in mines.....	3101, 3102
liability of parents.....	3103
penalty for violation act....	3104
of school age.....	1136
under sixteen.....	3095
liability of parent.....	3096
Engineer's license, false.....	2722
Engines and machinery, violation of law concerning.....	4211
Enticing to place of gambling or prostitution	11143
Entomology, state board of, violation of rules.....	2551
Equal pay for women and men, violation of law concerning..	3091
Escapes—See Rescues and Escapes	10864-10872
Estray law, failure of shippers to comply with.....	3345
Estrays, unlawful taking of.....	3340
Executors, administrators and guardians, failure to file report	10918
Exercising functions of office wrongfully	10831
Exhibiting deadly weapons.....	11299
Exhibition of deformities.....	11262
Explosives	
causing death by unlawful use.	2814
destruction of buildings by....	11477
manufacture or sale for wrongful use.....	11281-11283
sale of, after dark.....	2815
storage in cities and towns....	2815
violation of law concerning...	2813
Exposing infected clothing.....	11503
person affected with contagious disease	11257

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Extortion, acts constituting—See	
Extortion	11389-11405
by judicial officers.	10855
by public officers.	10826
Failure	
of parent to send children to school	1135
public officers to notify state land board of bond sales.	1915
to obey orders department of agriculture, labor and industry	3649
Fakers, punishment of.	11425
False	
advertising	11422-11424
assay, publishing.	11421
certificate by public officers.	10945
imprisonment	10921, 10988
meters, use of.	11387
oath by challenged voter.	732
pedigree of animals.	11417, 11418
personation	11407
pretenses	11410
return of marriage.	11213
statement as to assessment.	11324
statement in application for fishing and hunting license.	3692
statements by commission merchants, brokers, agents and factors	11415
statements respecting financial condition	11408
swearing in connection with absent voters' ballots.	732
swearing of judges of elections.	1223
weights and measures.	4234, 11240, 11428-11431
Falsification of evidence—See Evidence	10891-10897
Fences	
maintenance of unlawful and dangerous	11557
malicious destruction of.	11485
Fictitious warehouse receipts.	11460
Fire	
departments, false certificates of exemption by.	11526
districts, misappropriation of proceeds of bonds.	5158
escape law, violation of.	2784
marshal, state	
disobedience to subpoena of.	2749
failure of officers to notify.	2745
obstructing attempts to extinguish	11251
set or leaving, causing damage.	2766
Firearms	
shooting within city.	11530
use by children.	11565, 11566
Firemen's disability fund, embezzlement	5124
Fish and game laws, violation of—See Game and Fish	
Flag, desecration of.	11562
Food, destruction in restraint of trade	10914, 10915
disposal when tainted.	11242

CRIMINAL OFFENSES (Continued)

Forcible entry and detainer.	11300
Fords, obstructing near ferry.	11529
Foreign corporations, violation of law concerning statements and agents.	6655, 6656
Foreign insurance corporations doing business in violation of law	6116
Foreman, soliciting gifts.	11404
Forgery—See Forgery and Counterfeiting	11355-11367
of trademarks.	11199
Forging election returns.	10754
Fornication	11006
Fortune-tellers, etc.	11522-11524
Fraternal benefit societies, violation of law governing.	6338
Fraud in application for assessment accident insurance.	6248
Fraud in procuring mothers' pension allowance.	10486
Fraudulent	
altering of enrolled bills.	10836, 10837
bills and claims by public officers	10828
bounty claims.	3417
conveyances	11432-11435
issuance of corporate stock.	11438
practices to affect market price.	11258
registration or voting.	10748, 10749
sale or concealment of property by debtor.	10932
subscription for stock.	11437
voting or registering.	10750
Furnishing tools to aid in escape from vocational school for girls	12544
Gambling	11159
Game and fish laws, violation of—See Game and Fish	
Gas and water pipes, breaking or obstructing	11499
Gasoline and oil inspection, violation of law.	4207
Gasoline distributors' and dealers' law, violation of.	2395
Gates, leaving open.	11528
Giving	
false information for publication	10999
false statement to county assessor	11323
or offering bribes to executive officers	10823
Grand	
juries, disclosure of facts transpiring before.	10947
juror acting after challenge allowed	10942
larceny	11371
Guide-boards	
and milestones, malicious injury to.	11465
defacing	1794
violation of act concerning.	1720
Habeas corpus, violation of law concerning	11215-11217

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Health	
board of, violation of rules....	2646
boards, noncompliance with orders of.....	2468
laws, punishment for violation.....	11236, 11237
officers	
failure to assist.....	2471
interference with.....	2472
Herders, abandonment of sheep by	11550
Highways, malicious injury to...	11464
Hoisting machinery, operating without a license.....	2736
Holding up trains.....	11468
Homicide—See Homicide	
Horses	
taking up without owner's consent	11551
with glanders, sale prohibited.,	11263
Hospitals	
discrimination by.....	11577, 11578
for inebriates, furnishing liquor or drugs to patients.....	1455
Hotels	
fire-escapes, violation of act....	2784
punishment for defrauding....	11579
refusal to receive guests.....	11218
service of adulterated foods... ..	11245, 11246
violation of inspection act....	2498
Hours of labor	
law, violation of.....	3069- 3073
females, violation of act.....	3078
railroad employees, violation of act	3082
telephone operators, violation of act	3075
Imitation cheese, sale without label	11250
Improper influencing of jurors...	10856
Incest	11029
Indecent exposures and exhibitions	11136-11139
Indians carrying firearms off reservation	11314
Indigent parents, failure of child to support.....	5853
Industrial accident board	
deduction of premiums from wages	2937
divulging information.....	2935
Industrial accident fund, making profit on.....	3011
Infection of orchards, failure to notify inspector.....	3616
Infectious diseases, exposing persons afflicted.....	11257
Inhumanity to prisoners.....	10922
Injunctions, disobedience by railroads	3838
Injuries to	
gas and water pipes.....	11499
jails	11486
milestones	11465
standing crops.....	11481-11483
surveyor's monuments.....	11490

CRIMINAL OFFENSES (Continued)

Injuries to (continued)	
telegraph lines.....	11466
trees or improvements.....	11497
Injuring	
books in public libraries.....	11498
buildings by explosives.....	11477
exhibits at fairs.....	11498
fences, building fires and hunting on premises of another, when forbidden.....	11482
ornamental improvements within cities.....	11497
Inspection by revenue officers, refusal to permit.....	11330
of mines.....	11280
Insurance companies	
collecting premiums without license	6117
false testimony by officers....	166
falsification by agents.....	166
Insurance, destroying property and false proof of loss..	11426, 11427
Insurance law, violation of, by companies and agents..	6122, 6123
Interest of commissioners of irrigation districts in contracts..	7173
Interest of directors-irrigation districts in contracts.....	3962
Interference with	
canals	11467
election of officers.....	10749
employment of militia.....	1379
Intoxicating liquors—See Intoxicating Liquors.....	11048-11133
medicinal use, violation of act concerning	11099
Intoxication of railroad employees	11253
Intrusion into office.....	10831
Investment companies	
false statement by.....	4048
violation of law.....	4049
Issuing fictitious bills of lading..	11459
Jails, destroying or injuring....	11486
Junk-dealers, violation of act concerning	4192
Jurors and referees, bribery and misconduct	10856-10859
Jury-lists	
adding names to.....	10876
falsifying	10877
Justices and constables, interest in judgment forbidden....	10860
Justices of the peace, practice of law by.....	4863
Keeping or residing in house of ill-fame	11140, 11141
Kidnaping	10970
Killing and poisoning livestock.. ..	11512-11515
Killing animals by railroads....	11278
Labor unions, unlawful use of name	11209
Land-marks, removing, defacing or altering.....	11484
Larceny	
acts constituting—See Larceny	11368-11388

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Larceny (continued)	
excessive tolls by millers.....	3931
of records by	
other than public officers....	10874
public officers.....	10873
Legislative and political caucus,	
bribery of members.....	10764
Legislative assembly, offenses by	
and against—See Legislative	
Assembly	10834-10852
Letters, opening or publishing	
when sealed.....	11493
Letting buildings for	
boxing-matches	11296
lotteries	11156
Lewd and lascivious acts upon	
children	11005
Libel—See Libel.....	10989-10999
Licenses, operating without.....	2443, 11328
Life insurance companies, rebat-	
ing by.....	6286
Liquor laws, violation of—See	
Intoxicating Liquor	
Livestock	
control of diseases—See Live-	
stock	11533-11540
milicious killing or injury.....	11515
rescue when impounded....	3379, 3388
trespass, when forbidden 11225-	11228
unlawful introduction into herd	
districts	3389
Livestock sanitary board, viola-	
tion rules of.....	3288
Loading platforms, violation of	
law	3826
Log-brand act, violation of.....	1881
Logs	
defacing marks upon.....	11210
permitting to accumulate along	
shore of navigable lake.....	11574-11576
placing false marks on.....	1878
Lotteries—See Lotteries.....	11149-11158
Magistrate refusing to disperse	
rioters	11291
Maintaining nuisance in violation	
intoxicating liquor laws....	11066
Malicious injury to	
freehold	11481
guide-boards	1717
highways and bridges.....	11464
telegraph, telephone and electric	
light lines.....	11466
Malicious procuring of warrant	
for arrest.....	10948
Malicious spiking of sawlogs....	11505
Manslaughter—See Homicide....	
.	10959-10966
Market act, violation of.....	4491
Markets, fraudulent practices to	
affect	11258
Marking ballots for identification	
Marriage	
false record of.....	11213
solemnizing, when forbidden...	
.	5704, 11212
Married persons selling land under	
false representations.....	11413

CRIMINAL OFFENSES (Continued)

Marrying husband or wife of an-	
other	11028
under false personation.....	11406
Mask or disguise, wearing, when	
prohibited	11571
Maxim silenceers, manufacture or	
sale for wrongful use..	11281-11283
Mayhem	10968, 10969
Medicine, practice without license	
.	3122
Metalliferous mines license tax,	
violation of act concerning..	2351
Migratory livestock law, violation	
of	2075
Military courts, failure of witness	
to attend.....	1393
Military orders, use of insignia of	
Militia	
act, violating orders of officer..	1382
taking property from armory..	1408
unlawful possession of arms be-	
longing to.....	11332
unlawful sale of arms by mem-	
ber of.....	11333
Mills, excessive tolls by.....	3931
Mines	
and mining, violation of code of	
signals	3430
false pretenses in selling.....	11419
safety provisions regarding—	
See Mines and Mining..	11267-11275
violation of law governing....	11280
Minors	
admission to houses of prostitu-	
tion	11046
giving obscene literature to...	
.	11134, 11135
sale of tobacco to.....	11047
Misconduct of	
attorneys	10938
officers in charge of jury.....	10859
Misprision of treason.....	10736
Misrepresentation by life insur-	
ance agents.....	6291
Mock auctions, obtaining prop-	
erty by.....	11414
Money, using or circulating unau-	
thorized	11525
Monopoly, discrimination in pur-	
chase of dairy products.....	2630
Mortgaged property, sale or re-	
moval to defraud.....	11416
Mothers' pension act, obtaining	
fraudulent allowance under..	10486
Moving	
machinery along highways.....	1751
pictures, portrayal of crimes..	11567
scabby sheep.....	11533
Murder—See Homicide.....	10953-10958
Mutilation of	
dead bodies.....	11032
written instruments.....	11492
Navigation laws, violation of—	
See Navigation	3859- 3878
Neglect of parents to support chil-	
dren	10472
New counties law, failure of offi-	
cers to perform duties.....	4406

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Nitroglycerin, misrepresentations concerning	2805
Nomination papers, forgery and suppression of.....	669
Notices, destruction of.....	11491
Nursery stock delivery without certificate	3622
Nursing without certificate.....	3214
Obstructing	
firemen	11251
highway crossings by railroads.	6595
highways by garbage, glass, etc.	1740
mine shafts and tunnels.....	11580
navigable rivers.....	11489
revenue officers.....	11322
state veterinary surgeon.....	11540
Obtaining property by false pretenses	11410
Offer to appoint to office....	10762, 10763
Offering	
false evidence.....	10891
false instruments for record...	10875
forged instruments for record.	10875
to vote twice.....	584
Officers	
asking and receiving bribes...	10824
falsifying jury-list.....	10877
illegal interest in contracts...	10827
neglect of duty as to gambling	11171
permitting escape.....	10869
receiving bribes.....	10854
refusing to arrest.....	10916
violating laws concerning custody of state money.....	197
wilful omission of duty.....	10950
Oil inspector, obstruction of....	4197
Oleomargarine, sale without label	11248
Omission of duty by public officers	10950
Opening	
sealed letters.....	11493
telegrams	11496
Opiates, violation of law concerning sale.....	3188, 3202
Opium	
keeping or resorting to place where used.....	11045
unlawful sale of.....	11239
Oppression and injury by public officers	10952, 11394
Optometry, practice without license	3156
Orchard quarantine, violation of	3627
Orchards and nurseries, violations of rules concerning....	3615
Ore	
assaying, violation of act.....	3441
changing samples for assay....	11420
false samples of.....	11421
settlement for, violation of act	3443
Orphans' home, misconduct by officers	1500
Osteopathy, practice without license	3132
Overdraft by officers of bank....	6055
Overflowing ditches and flumes..	11531

CRIMINAL OFFENSES (Continued)

Owner of trespassing livestock...	11226
Parents and guardians, failure to comply with law governing education of deaf and blind children	1467
Paris green and insecticides, violation of act.....	2613
Partner of county attorney defending suit.....	10940
Part-time schools, violation of act concerning	1149, 1150
Pawnbrokers—See Pawnbrokers.	
.....	11184-11187
violation of act governing.....	4192
Penalty for	
exaction, false weights.....	4227
failure to obey fire warden....	5142
selling other than standard pack	4272
violating law concerning platting townships.....	4994
Perjury—See Perjury.....	10878-10890
Personating officers forbidden....	
.....	10926, 10927
Pesthouses in city limits.....	11234
Petit larceny.....	11374
Pharmacy act, violation of.....	3179
Physician's acts while intoxicated	11193
Physicians practicing without certificate	3122
Placing passenger cars in front of freight cars.....	11254
Plumbers, violation of law regulating	5193
Poisoning food or water.....	11194
Police protection of gambling....	11172
Poll-taxes, improper receipt.....	11325
Pool-halls, violation of law governing	11188-11192
Pooling by public warehouses....	
.....	10912, 10913
Possession of	
burglarious instruments.....	11353
counterfeit coins	11364
deadly weapon with intent to assault	11354
gambling implements.....	11160
improper tax or license blanks.	11326
Practice of law by justices of the peace	4863
Premium and trading stamp act, violation of.....	2433
Preparing false evidence.....	10893
Presenting false claims by officers	10828
Preventing	
legislature from meeting.....	10834
public meetings.....	10765
witnesses from testifying.....	10895
Primary nominating elections, official misconduct at.....	658
Prisoners, threatening or torture.	
.....	10923, 10924
Prison-made goods, making of...	11573
Private banks, receiving deposits when insolvent and making false reports.....	6107

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Prizefights, promoting or attending	11293, 11294
leaving state to engage in	11295
Procuring execution of innocent person by perjury	10890
Prohibition of sale of intoxicating liquors—See Intoxicating Liquors	11048-11333
Promoting fights between animals	11514
Prostitution, regulation of—See Women	11008-11016
Public	
accountancy, practice without certificate	3251
administrator, failure to perform duties	10917
libraries, destroying books in	11498
meetings, prevention of	10765
moneys, wrongful acts concerning	11318
nuisances—See Public Nuisances	11231-11235
officers	
acting without qualifying	10821
collecting excessive expense account	459
delay in taking persons arrested before magistrate	10920
failure to aid state examiner	211
interest in contracts	10827
neglect to pay over fines	11321
neglect to pay over money	11319
utilities	
act, violation of	3902, 3903
failure to make report	3888
weigher, false receipts and collusion	4476
Punishment, general regulation of—See Punishment	11581-11605
when not otherwise prescribed	10951
who to impose	10718
Pupils, undue punishment of	1084
Pure food and drug act, violation of	2594
Putting dead animals into highways, waters, etc.	2484
Quarantine districts receiving infected agricultural products	3633
Quarantine, violation of—See Quarantine	
Quartz mines, violation of act	3435
Races	
name and class of horse to be indicated	11560
unlawful entries in	11559
Racing bets	11180-11183
Rafts and wood-piles, burning or injuring	11488
Railroad	
commission, violation of orders of	3806
commissioners, contempt of injunctions to enforce orders	3830
companies, officers contracting excess debts	11448

CRIMINAL OFFENSES (Continued)

Railroads	
liability of employers for death from negligent collision	11230
malicious injury to property	11468, 11469
moving cattle without inspection certificate	3323
moving horses without inspection permit	3319
penalty for killing livestock	11278
placing passenger cars before freight	11254
rebates and extortion by	3804, 3805
receiving illegal fares	11401
receiving uninspected livestock	3323
removal of waste or packing from locomotives	11472
violation of duty	
by employees	11255
by roads	11256
regulations governing	11279
violation of laws concerning	
confiscation of coal	6594
fences and crossings	6556
free transportation	6574
issuance of bills of lading by agents	6612
killing livestock	6549
locomotive headlights	6610
penalty for, passenger rates	6588
placing numbers on locomotives	6622
regulation of	6521
tunnel charges	6591
wrecking trains	11468, 11469
Rape	11000-11003
Real estate brokers, violation of act concerning	4074
Real property, selling twice	11412
Receiving	
fees for service in arresting fugitives	10919
fraudulently conveyed property	11434
property in false character	11409
stolen property	11388
uninspected nursery stock	3621
Red flag, exhibition of	10745, 10746
Refilling casks bearing trade-marks	11203
Refusal of public officers to receive persons arrested	10916
Refusal to	
aid officers in arrests	10930
disperse on lawful command	11290
give names of employees for taxation	11327
kill animals having glanders	11264
list property for taxation	11323
obey habeas corpus	11215
pay over fines	11321
pay over public moneys	11319
pay wages without discount	11403
permit inspection of books of revenue officers	11330
receive guests or passengers	11218
surrender books to successor	10832
Registration law, violation of	583-585

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Registration of births and deaths, violation of.....	2538
Removal of mortgaged property.....	11416
packing from machinery.....	11472
Rescue impounded livestock.....	3379
Rescuing prisoners—See Rescues and Escapes.....	10864-10872
Resisting executive officers	10825, 10928
process when county in state of insurrection.....	11292
public officers.....	10928
Restraint of trade—See Restraint of Trade.....	10898-10914
Retaking goods from custody.....	10865
possession of lands after law- ful removal.....	11301
Returning to take possession of lands after eviction.....	11301
Rioters, failure to disperse.....	11290
Riots.....	11286
Robbery.....	10973-10975
Routs.....	11287
Running at large of diseased live- stock.....	11556
Sabotage.....	10741, 10742
Saccharin, sale of food products containing.....	2599
Sale of adulterated candies.....	11265
animals affected with glanders.	11263
animals subject to stallion lien.	8395
firearms to Indians.....	11259
mines under false pretenses...	11419
pure-bred stock, violation of act concerning.....	3356
spoiled foods.....	11242
tobacco to minors.....	11047
Sale or removal of mortgaged property.....	8291
Salting ore.....	3438
Scab disobeying orders of state vet- erinarian concerning.....	11535
moving animals affected with..	11536, 11537
Scabby animals, shipping into state.....	11534
Scales, use of uninspected.....	4240
School laws failure of clerk to report cen- sus.....	1051
failure of public officers to per- form duties.....	1218
part-time school law, failure to enforce.....	1149
violation of.....	1329
School teachers abuse of.....	1082, 11527
failure of public officers to per- form duties.....	1218
failure to give fire-drill and in- structions.....	1071, 1072
School trustees bribery forbidden.....	10862

CRIMINAL OFFENSES (Continued)

School trustees (continued) failure to deliver to successors, papers, etc.....	1018
failure to pay money from bond sales.....	1233, 1242
failure to provide outhouses...	1015
Sealers of weights and measures, violation of act concerning— See Weights and Measures..	4235- 4264
Secretary of state, failure to pro- vide blanks for reports.....	524
Sedition.....	10737-10740
Seduction.....	11007
Seed-grain law, disposal of crop..	4667
Selling dairy products not standard weight.....	3571
land twice.....	11412
merchandise at camp-meetings.	11043, 11044
property received for storage or transportation.....	11463
unsanitary meat.....	2584
Serving adulterated foods with- out notice to consumers....	11246
Setting adrift boats and rafts...	11488
Setting fire to timber and grass..	11500-11502
Sheep, control of diseases—See Livestock.....	11533-11540
Sheriffs, false representation of accounts.....	11334
Sheriffs, refusal to serve papers..	9120
Shipment of stock without inspec- tion.....	3327
Shoddy, violation of act concern- ing.....	2619
Short weights, penalty for....	4245, 4246
Slaughtering diseased animals...	11243
Smoking opium.....	11045
Solicitation or bribe of officers...	10843
Soliciting persons to visit gam- bling resorts.....	11163
Spark arresters, failure of rail- roads to comply with law con- cerning.....	6601
Standard grades of hay, violation of act concerning.....	4231
State board of health, violation of rules.....	2657
State land trespass and holding over upon violations of laws by officers..	1904 1927
State officers, failure to make re- ports to secretary of state..	525
State printing, violation of act concerning.....	280
Statistics, violation of act 'con- cerning.....	2046, 2047
Stealing rides upon cars....	11568-11570
Steam boilers death from neglect of.....	11229
punishment for mismanagement or operation without license.	11195-11198

GENERAL INDEX.

CRIMINAL OFFENSES (Continued)

Stock inspectors, divulging information concerning.....	4485
Storage of explosives, violation of act.....	2807, 2808
Submitting to attempts to produce miscarriage	11024
Subornation of perjury.....	10889, 10890
Substitution of infants.....	10935
Suicide, aiding or advising.....	11261
Sunday law.....	11039
Superintendents, solicitation of money from employees.....	11404
Taking rewards for appointment to office.....	10830
Taxation	
false statement not under oath, concerning	11324
freight line companies, violation of act concerning.....	2104
laws, violation of—See Taxation	
refusal of employers to furnish names of employees.....	11327
Telegrams, offenses concerning..	11494-11496
See Telegrams.....	11516-11519
Telephones, violation of law requiring maintenance in office of railroads, telegraph and express companies.....	6581
Tenement-house sanitation, violation of act.....	2502
Terminal grain elevator	
fraudulent storage receipts....	1602
violation of rules of.....	1602
Third degree methods, practice of	10923, 10924
Threats, criminal, when—See Threats	11398-11400
Tick-bearing rodents, violation of law regarding.....	2561
Toy pistols and caps, sale of—See Pistols.....	11310-11313
Trade commission for regulation of public mills, violation of act	3945
Trademark law, violation of.....	4290- 4292
Trademarks—See Trademarks....	
.....	11199-11209
Trading-stamp law, violation of..	2433
Trainmen intoxicated on duty...	11253
violation of duty by.....	11255
Treason and misprision of.....	10735, 10736
Treating electors.....	10791
Trespass	
on state lands.....	1904, 11507
upon public property.....	11335
exceptions	11336
Trespassing livestock in cities and towns.....	3402
Trusts in restraint of trade	10901-10915
Tuberculin, sale without permit..	3298
Uniform warehouse receipts act, penalties for violation....	4128- 4132
Uniforms, wearing without authority	11558
Union label, counterfeiting.....	11204, 11205

CRIMINAL OFFENSES (Continued)

United States surveyors' monuments, injuries to.....	11490
Unlawful assembly.....	10743, 10744, 11288, 11289
magistrate neglecting to disperse	11291
remaining after order to disperse	11290
Unlawful issuance of money.....	11525
Unsafe doors to public buildings	11266
Use of unsafe boilers.....	11197
Vagrancy	11521
Veneral diseases, violation of act concerning	2577
Vessels, setting adrift.....	11488
Veterinary medicine, violation of act concerning.....	3228
Violating sepulture—See Sepulture	11032-11038
Violation of	
acts concerning furnishing statements of proceeds of ores... orders fish and game commission	3446 3671
Votes, adding or subtracting returns, alteration of, penalty..	10755
Voting, fraudulent.....	10750, 10751
Voting machines, offenses concerning	770- 773
Warehouse receipts, unlawful issuance	3587
Warrants, malicious procuring of	10948
Wasteful use of natural gas.....	3552
Water or water rights, sale without permit	3950
Water, taking from or obstructing canals	11467
Weeds, violation of act concerning	4513
Weights and measures, penalties for use of false.....	4234
Weights, increasing of articles sold in packages.....	11240
Wilfully causing collisions.....	11230
Witnesses	
failing to attend before legislature	10845
preventing attendance of.....	10895
receiving bribes.....	10897
Witnessing prize-fights.....	11294
Women	
regulation of prostitution and immoral transportation and use of—See Women....	11005-11016
transportation for immoral purposes	11008
Wrecking trains.....	11468-11471
Written instruments, injury to...	11492
Written threats, sending of.....	11398
Wrongful	
appointment of deputies.....	10830
taking of government property from armory	1408
use of insignia military orders	1410

CRIMINAL SYNDICALISM

Defined	10740
Penalty	10742, 10743

GENERAL INDEX.

CROPS

Burning grain, penalty for.....	11476
Drought relief—See Counties 4640—	4710
Injuries to, when standing.....	11483
malicious	11481
Liens for	
hail insurance—See Liens 8363—	8365
seed-grain—See Liens.....	8359— 8362
Mortgages, creation and extent of	
lien, exception.....	8290
Opening highway through.....	1644
Tenant for years may harvest at	
end of term.....	6761

CROSS-COMPLAINTS

When and how allowed.....	9151
---------------------------	------

CROSS-EXAMINATION

Defined	10662
On preliminary hearing.....	11779
Scope of.....	10665

CROSSINGS

Electric signaling devices at....	
.....	3842— 3846
Highways crossing railroads, ca-	
nals and ditches.....	1647
Motor vehicles to stop at.....	3842
Obstruction by railroads, regula-	
tion of.....	6595
Platforms and stations at....	3822— 3826
Regulation of	
by railroad commission.....	3834
operation of trains at grade....	6596
railroad, outside of cities and	
towns—See Railroads...6625—	6636

CROW INDIANS

Acceptance act of congress rela-	
tive to grant of school lands	
.....	1806, 1807
Children may attend public schools	1808

CRUELTY

Apprenticeship indenture, cancel-	
lation for.....	5898
Divorce, grounds for.....	5736
Extreme, defined.....	5738
Lunatics and insane, treatment of	11214
To children.....	11022
To prisoners.....	10922—10924

CRUELTY TO ANIMALS

Abandonment of disabled animals	11509
Acts constituting.....	11508
Carrying in a cruel manner.....	11511
Cows, keeping in unhealthy place	11513
Failure to provide food and drink	
when impounded.....	11510
Malicious killing or maiming....	11515
Overloading or driving.....	11508
Poisoning animals.....	11512, 11515
Promoting fights between animals	11514

CUBIC FOOT

Standard of measurement of	
water	7107

CULVERTS

See Highways.....	1721— 1725
-------------------	------------

CURLEW

Killing forbidden.....	3700
------------------------	------

CURTESY

Tenancy abolished.....	5812
------------------------	------

CUSTER COUNTY

Boundaries and county seat.....	4313
---------------------------------	------

CUSTODIAN OF RECORDS OF G. A. R.

Appointment	320
Appropriation for.....	324
Purposes for which used.....	322
Records state property.....	323
Room for storage of records.....	321

CUSTODIAN OF STATE CAPITOL

Appointment	310
Bond of	315
Designation	310
Duties	311— 313
Employment of help.....	313
Head janitor abolished.....	316
Report by.....	313
Salary	310
Term of.....	314

CUSTODY

Minors	
how regulated.....	5677
rules for awarding.....	5878
Of children—See Parent and	
Child	5833— 5837
when parents separated.....	5851
Records by secretary of state....	133
Rescue of prisoners from.....	10864
Retaking of goods from.....	10865

CUSTOMARY

Defined	16
Denotes what.....	8779

CUSTOMS

May be proved.....	10531
Mining, have effect of law, when	9499

CYCLONE INSURANCE

Regulation of—See Insurance Cor-	
porations	6170— 6184

DAIRIES AND DAIRY PRODUCTS

See also Butter and Cheese	
See also Milk	
Adulterated milk, sale of, for-	
bidden	2620
Babcock test, regulation of use..	3570
Coloring matter, use of.....	2627
Co-operative butter and cheese	
factories, books of, open to	
inspection	2621
Eggs—See Eggs.....	2585, 2634— 2637
Imitation	
butter, regulation of use.....	2622
or filled cheese, regulation of..	2626
Imported meat and dairy prod-	
ucts, label.....	2632
penalty for violation.....	2633
Inspection by livestock sanitary	
board	3267
Keeping cows in unhealthy place	
forbidden	11513

GENERAL INDEX.

DAIRIES AND DAIRY PRODUCTS

(Continued)

License from	
board of health.....	2589
livestock sanitary board...	3282, 3283
Maker's name to appear on pack- age.....	3571
Meat, license to sell.....	2589, 3282, 3283, 3348
Milk and cream, regulation of handling.....	2620
Milk bottles, contents to be indi- cated.....	4255
Mixing other fats with milk.....	2623
Monopoly, discrimination in pur- chase of.....	2630
Oleomargarine, regulation of sale of.....	2622
Patent butter, regulation of.....	2625
Penalty for violation of act.....	2631
Registry of factories with com- missioner of agriculture.....	3569
Regulation	
by department of agriculture, labor and industry—See Agri- culture, Labor and Industry, Department of.....	3569-3572
of milk containers.....	4254
Renovated and storage butter, regulation of.....	2624
Reports to commissioner of agri- culture.....	3569
Sale of adulterated milk and cream.....	2620
Sanitary regulations when shipped into state.....	3572
Skim-milk, regulation of.....	2628
Standard of measurements for...	3571
Trademarks.....	2629
Tuberculin test	
by state veterinary surgeon....	2583
regulation of use of.....	3268
Weights and measures.....	2582

DAMAGES

See also Relief.....	8659-8662
Allowed by code, exclusive, when	8703
Appeal for delay.....	9752
Breach of agreement to	
buy personal property, measure of.....	8677
buy real property, measure of..	8673
convey real property, measure of.....	8673
pay for personal property sold, measure of.....	8676
sell personal property, measure of.....	8674, 8675
Breach of carriers' obligation, measure of	
for delay in delivery.....	8683
to deliver goods.....	8682
to receive goods.....	8681
Breach of contract, measure of..	8667
must be certain.....	8668
Breach of covenant	
against encumbrance, measure of.....	8671

DAMAGES (Continued)

Breach of covenant (continued) of seizin, right to convey, war- ranty, etc., measure of.....	8670
Breach of obligation	
other than contract.....	8686
to pay money, measure of.....	8669
Breach of promise of marriage, measure of.....	8685
Breach of warranty of	
authority, measure of.....	8684
quality of personal property, measure of.....	8679, 8630
title to personal property, meas- ure of.....	8678
of quality, measure of.....	8679
Claim	
and delivery.....	9239
for, in complaint.....	9130
Contracts fixing, void, when.....	7556, 7557
Conversion of personal property.	8689
Detriment, what constitutes.....	8660
Disobeying subpoena.....	10625
Dueling	
for injuries.....	8697
for killing or disabling.....	8698
Embezzlement of estate.....	10140
Eminent domain, logging roads, must be paid, when.....	9958
Exemplary	
for injury to animals, when...	8693
for loss of money at gambling..	11173, 11174
minors, when liable for.....	5686
persons of unsound mind, when liable for.....	5686
when allowed.....	8666
For	
breach of obligation not arising from contract.....	8686
conversion of personal property	8689, 8690
cutting trees.....	9476
detriment after suit.....	8661
dueling.....	8697
injuries to	
intoxicated person.....	11065
real property after execution sales.....	9497
resulting after suit.....	8661
to trees, extent of.....	8696
killing person in duel, liability for debts.....	8698
refusal to transmit messages...	7877
seduction, measure of.....	8692
usurpation of office.....	9592
wilful holding over of real property.....	8688
withholding dower.....	10168
wrongful	
injuries to animals.....	8693
occupation of real property, extent of.....	8687
Forcible entry and detainer, tre- ble, when.....	9478
Fraud by executor or administra- tor.....	10244

GENERAL INDEX.

DAMAGES (Continued)

Improvements to real property, set-off	9491
In mandamus	9858
Joinder of causes of action	9130
Judgment by default	9322
Limitation of recovery	8704
Liquidated, not bar to specific per- formance	8719
Must be	
certain, when	8668
paid, when in condemnation	9949
reasonable	8705
Nominal damages, when recover- able	8706
None awarded for right to cross railroad, when	1647
Nuisance	9474
Of lienor for conversion of per- sonal property	8691
Penal, when allowed	8694-8698
Punitive, when allowed—See also subtitle penal damages	8666
Real property, for wrongful oc- cupancy	8687
Recoverable though not specified	10715
Recovery for injury by	11065
survival of action	11065
Seduction, for	8692, 9073
To	
be determined by jury or ref- eree on default	9322
person entitled to writ of ha- beas corpus, when	12380
real property	9490
state property, civil action	11335
Treble rent for	
failure to surrender real prop- erty, when	8694
wilful holding over of real prop- erty, when	8695
Trespass, treble, when	9476
Value	
how estimated in favor of buyer	8700
how estimated in favor of seller	8699
of things in action, how esti- mated	8702
Waste, may be treble, when	9475
When	
exclusive	8703
witness refuses to testify	10625
Who may recover	8659
Witness liable to, for disobeying subpoena	12184

DAMS AND RESERVOIRS

Abatement when dangerous	2659
Board to proceed against, when and how	2670
Compensation of examiners	2669
Complaint against filling unsafe	2660
Construction of	
complaint as to	2659
to be secure	2659
County commissioners to appoint examiners, when	2668
Examination and report	2661
Fishways at dams	3653

DAMS AND RESERVOIRS (Con- tinued)

Judge to appoint examiners	2660
Penalties for violation of act	2671
Proceedings when insecure issues, trial and judgment	2664, 2665
new trials and appeals	2666
Report, contents of	2662
Right to construct to raise water	7110
Secure construction before filling with water	7117
Use of insecure reservoir forbid- den	7118
Water may be drained off, when	2667

DANCE-HALLS

Opening on Sunday prohibited	11039
--	-------

DANIELS COUNTY

Boundaries and county seat	4314
--------------------------------------	------

DATE

Delivery of grant	6844
In negotiable instruments law— See Negotiable Instruments Law	8418-8420
Insertion in negotiable instru- ments, when	8420
Omissions from negotiable instru- ments, effect of	8413
Presumption as to	10606

DAWSON COUNTY

Boundaries and county seat	4315
--------------------------------------	------

DAY

Defined	4281, 4282
School day	1059

DAYS OF GRACE

Not allowed	8492
-----------------------	------

DEAD ANIMALS

Disposal of carcasses, when for- bidden	11235
Penalty for putting in streets and public waters	2484

DEAD BODIES

Arresting or attaching, forbidden	11037
Offenses concerning—See Sepul- ture	11032-11038

DEADLY WEAPONS

See also Weapons	11302-11309
Defendant to be searched before magistrate	12414
Possession with intent to assault	11354
To be taken from person arrested	11763
Unlawful exhibition and use of	11299

DEAF AND BLIND, MONTANA SCHOOL FOR

Admission	
of nonresidents	1462
regulations concerning	1461
Clerk of school district to en- force law	1468
Compulsory education	1466
penalty for violation of	1467

GENERAL INDEX.

DEAF AND BLIND, MONTANA SCHOOL FOR (Continued)

Control, in whom vested.....	1459
Deaf and dumb fund.....	1473
Education compulsory.....	1466
Exemption of employees of school	1460
Farm colony, establishment of...	1464
Feeble-minded	
regulations governing admis-	
sion	1464
training school for—See Feeble-	
minded Persons, Training	
School for.....	1474- 1483
Funds, how expended.....	1469
Lands set apart for.....	1472
Name of school.....	1456
change of, effect of.....	1457
Nonresidents, admission of.....	1462
Objects of school.....	1458
Pauper inmates.....	1463
School district clerk	
duties of.....	1468
to report pupils eligible.....	1465
State board of education, powers	
concerning	1470
Supervision and control.....	1459
Term of school.....	1471
Who entitled to admission.....	1461

DEALERS

Gasoline license tax—See Taxa-	
tion	2381- 2396

DEATH

See also Probate Proceedings	
Agent, terminates agency.....	7974
Boiler explosions.....	11229
By carelessness of druggist, fel-	
ony	11238
Civil sentence to imprisonment,	
when	11601- 11602
Collisions on railroad.....	11230
Depositions of witness may be	
read in case of.....	10652
Devisee	
effect on devise.....	7042
effect on remainder.....	7043
Does not dissolve attachment....	9274
Effect on action when person dies	
out of state.....	9051
Employees, liability of railroads	
for	6605
Employer	
duty of servant to continue in	
service	7788
when terminates employment..	7786
Entries by decedents, when evi-	
dence	10594
Entrymen, action to establish title	
.....	9501- 9515
Execution of judgment, after....	9422
Executors and administrators, let-	
ters to successor.....	10117
Father may sue for death of child	
From	9075
duel, punishment.....	10982
vicious animals, felony.....	11260
Insured, effect upon insurance	
policy on property.....	8080

DEATH (Continued)

Joint guardians, survivorship....	5884
Judgment	
how executed—See Execution	
of Judgment.....	12093-12104
in case of, effect.....	9408
Limitations, statute of.....	9050
Maker of negotiable instrument,	
presentment	8483
No bar to counterclaims, when..	9145
Not abatement of actions.....	9086
Of	
attorney, effect.....	8977
employer, wages preferred claim	8353
party, when action in partition	
pending	9533
strangers, duty to notify public	
administrator	9992
Offenses punishable by, not bail-	
able, when.....	12135
Partner, dissolves partnership....	8009
Penalty for procuring execution	
of innocent persons by per-	
jury	10890
Principal, terminates agency....	7975
Punishment for murder of first	
degree	10957
Registration of—See Vital Statis-	
tics	2515- 2539
Survival of action.....	9054
When	
presumed	10606
representatives may sue.....	9076

DEATH BY WRONGFUL ACT

Action, time for commencing....	9031
Heirs or personal representative	
may sue for, when.....	9076

DEBTOR AND CREDITOR

See also Assignments for Benefit	
of Creditors.....	8612- 8641
Bulk sales—See Bulk Sales..	8607- 8611
Contracts of debtor, when valid..	8600
Creditor	
release of surety.....	8201
rights as against surety.....	8209
who is.....	8599
Debtor	
See also Joint Debtors, Proceed-	
ings Against.....	9762- 9769
bail, upon arrest.....	9455
compelled to appear on pro-	
ceedings supplementary.....	9455
concealment by, effect of..	10932, 11435
see also Fraudulent Convey-	
ances	11432-11434
defined	8598
judgment, concealment of prop-	
erty	10933
may	
be arrested, when.....	9455
make preferential payments.	8601
must answer as to property....	9454
Fraudulent transfers—See Trans-	
fers	8603- 8606
Marshaling assets.....	8602

GENERAL INDEX.

DEBTOR AND CREDITOR (Continued)

Relation created by deposit, when	7701
Securities pledged can not be sold	8312

DEBTS

Claims against estates—See Probate Proceedings.....	10170-10194
Collection by sheriff, on attachment	9270
Compromise without seal, good...	10582
Contracting by railroad officers forbidden, when.....	11448, 11449
Corporate liability of stockholders	5966
Definition of, for taxation.....	1996
Due defendant, how attached	9261, 9262
Evidence necessary to charge person with debt of another....	10614
How seized on execution.....	9424
Liability of husband and wife—See Husband and Wife..	5790- 5800
Of estates, order of resort for payment	7053
Owing to employees, how paid out of estates	8353
Persons succeeding to property liable for.....	7092

DECEASED PERSONS

Disqualification of witnesses.....	10535
------------------------------------	-------

DECEIT

See Frauds	
Damages for.....	7574
Punishment of attorneys for....	8978
Things constituting.....	7575
Upon the public, effect of.....	7576

DECISIONS

Deemed excepted to, when...9387,	12038
Exceptions to.....	9386
On matters of law, deemed excepted to, when.....	12039
Supreme court, in writing...8801,	8805

DECLARATIONS

Of homestead—See Homesteads	6970- 6973
Of marriage—See Marriages..	5724- 5727
Trust, recording of.....	7907
When admissible in evidence—See Evidence	10510-10514

DECORATION DAY

Holiday	10
---------------	----

DEDICATIONS

City plats.....	4985
-----------------	------

DEEDS

See also Commissioner of Deeds..	
.....	404- 408
See also Conveyances—Grants—Transfers	
Acknowledgment—See Acknowledgment	6905- 6919
Certified copies, recording in another county.....	6890, 6934
Form of.....	6860
Indexes of.....	4799

DEEDS (Continued)

Issuance of duplicate by district judge, when.....	5354
Ownership, in whom vested.....	6815
Petition for issuance on early townsite entries.....	5356
Recording—See Counties, subtitle clerk, county.....	4795- 4814
see also Recording Conveyances	
Sheriff's deed issued, when.....	9444
State land board may correct errors in.....	1815
Tax deeds—See Taxation....	2209- 2215
Unacknowledged deed valid, when	6933
Validation of certain instruments	4797, 4798
Wife need not sign, when.....	5818

DEEDS OF TRUST

Corporations, how executed and filed	8273
Record of, as constructive notice.	7907

DEER

Closed territory.....	3697
Game animal.....	3681
Open season for.....	3697
Regulation of killing.....	3697, 3698

DEER LODGE COUNTY

Boundaries and county seat....	4316
--------------------------------	------

DE FACTO OFFICERS

Validity of acts.....	10822
-----------------------	-------

DEFACING

See also Alteration	
Log-marks, penalty.....	11210

DEFAMATION

How affected.....	5689
-------------------	------

DEFAULT

Court may reopen.....	9187
Divorce not granted by.....	5767
Entered, when.....	9322
Extent of relief awarded to plaintiff	9316

In

claim and delivery.....	9239
forcible entry and detainer....	9896
justices' courts.....	9664, 9665
appeal	9755
defendant's failure to appear	9664
setting aside.....	9647
mandamus	9851
Judgment by, when entered.....	9322
Relief from judgment.....	9187
Want of answer to amended complaint	9134

DEFEASANCE

Grant must be recorded, when....	8265
Transfer subject to, may be proved	8250

DEFECTS

In

accounts, when disregarded....	9167
official bonds, effect of.....	484, 485
pleadings, when disregarded...	9191
Nonprejudicial, to be disregarded	11874

GENERAL INDEX.

DEFENDANT

Admission to bail—See Bail	
Allowance of costs, when.....	9788
Appeal, right of.....	12105, 12107
Appears in actions, when.....	9782
Arraignment of—See Arraignment	
.....	11875–11890
Arrest	
by bail, for surrender, when....	12158
in civil actions, when allowed..	9194
of—See Arrests	
restraint to which to be sub-	
jected	11752
upon filing information.....	11626
Bail—See Bail	
Clerk to issue blank subpoenas to	12179
Commitment	
how made and to whom de-	
livered	11789
on appearing for trial, when...	12006
Committed on postponement of	
trial or examination, when...	11776
Competency as witness, effect of	
testimony	12177
Concealment of property.....	10933
Controversy between defendants,	
answer	9177
Conviction only upon verdict and	
judgment	11614
remanded to custody.....	12035
Counsel to be procured, how and	
when	11774
Credibility, jury to be judge....	12177
Damages to, on failure of witness	
to attend.....	12184
Defined	11610
Depositions of witnesses impris-	
oned	12198
rights of.....	12193
Discharge	
facts not constituting offense,	
procedure	11994
lack of jurisdiction.....	11991
on	
commitment by justice, how..	12333
examination, when.....	11785
reversal of judgment.....	12129
to testify for	
codefendant, when.....	11975
state, when.....	11974
upon acquittal.....	12034
Discontinuance of actions, effect	
upon limitation, defense or	
counterclaim	9060
Entitled to provisional remedy on	
counterclaim, when.....	9312
Examination, when to proceed...	11775
Failure to set up counterclaim, ef-	
fect	9144
Fraudulent concealment of prop-	
erty by.....	10933
Grand jury need not hear evidence	
of	11824
How	
arraigned for judgment.....	10264
produced for judgment when	
on bail.....	12059
bench-warrant to issue, when	12060

DEFENDANT (Continued)

In	
contest of probate of will.....	10032
criminal actions, rights of.....	11610, 11611
custody, how produced for judg-	
ment	12058
justices' courts	
admissible to bail.....	12342
time for appearance.....	9632
special proceeding.....	9834
Insanity	
inquiry concerning—See Insan-	
ity	12213–12219
verdict of, procedure.....	12036
Joinder for loss of money at	
gambling	11173
Justices' courts, presence.....	12316
Landlord may be joined as, when	9078
Magistrate to inform	
of charge against.....	11773
of right to counsel.....	11773
May	
be committed on appearance for	
trial	12006
be discharged to become witness	
.....	11974, 11975
send for counsel on examination	11774
Money, etc., taken from, on ar-	
rest, receipt for.....	12245
Must appear in person for verdict,	
when	12018
Need not appear in appellate court	12124
Not compelled to testify.....	12177
Objections to place of trial.....	9097
Out of state, effect on time for	
commencement of action.....	11725
Party	
in actions on real property....	9081
prosecuted	11610
to special proceeding.....	12429
Plea oral in justices' and police	
courts	12305
Pleadings allowed to.....	9127, 11896
Presence	
at	
sentence	12057
trial	11931
trial in justice court.....	12316
verdict	12018
not required on appeal.....	12124
Presumption of innocence.....	11971
Procedure	
on acquittal on grounds of in-	
sanity	12036
upon conviction.....	12035
Punishable on legal conviction	
only	11606
Restraint before conviction.....	11613
Right	
of, in prosecution.....	11611
to	
examination of witnesses in	
presence	11779
provisional remedies on set-	
ting up counterclaim.....	9312
speedy public trial.....	11611
Sanity, proceedings concerning—	
See Insane Persons.....	12213–12219

GENERAL INDEX.

DEFENDANT (Continued)

Second prosecution prohibited, when	11612
Service of summons on part only	9121
Show cause why judgment should not be pronounced.....	12065
State	
may be joined as, when.....	9079
service of process on, how made	9080
Substitution	9087
Surrender by bail, when and how	12157, 12162
Time to prepare for trial.....	11935
To be searched for weapons, etc., before magistrate.....	12414
Transcript to be furnished free, when	8931
True name, justices' courts.....	12309, 12310
Voluntary appearance, effect of..	9123
Waiver of preliminary examination	11797
Warrant of arrest to specify name	11734
When	
and how committed on preliminary examination.....	11786
order for, to sheriff.....	11787
committed on appearance for trial	12006
deemed plaintiff.....	9312
discharged on preliminary examination	11785
Who may	
appear as, in actions against boats	9612
be joined as.....	9978
Witness	
against himself.....	11613
for, to be produced and sworn, when	11780

DEFENSE

Acquittal or conviction as.....	11581
in foreign state.....	11583
Effect of assignment of choses in actions	9068
Insanity, verdict of, procedure..	12036
Kidnaping, consent of person injured	10972
Larceny	11384
Libel and slander.....	9176
Once in jeopardy.....	11612
Perjury	10883-10885
Pleadings, how governed—See Answer	9137, 9151
Truth, in prosecution for libel...	10992

DEFICIENCY JUDGMENT

When to be entered.....	9467, 10255
-------------------------	-------------

DEFINITIONS

See specific main titles	
See also Words and Phrases	
Acre	4216
Allegiance	35
Ballot	681- 686
Boundaries, words used in description	4294, 4295
Bushel	4226
Cemetery	5169
Chain	4215

DEFINITIONS (Continued)

Citizen	32
City	4955
Credits	1996
Day	4281
time	4282
Debts	1996
Depose	16
Descriptive words in boundaries..	4294
Elisor	4793
Estate, real.....	1996
Full cash value.....	1996
Gallon	4219
Highways	1611
Hogshead	4220
Holiday	10
Improvements	1996
Law	5670
Leap-year	4278
Magistrate	16
Mile	4215
Month	16
Night-time	4282
Notice	4773
Oath	16
Of terms used in Penal Code.....	10713
Officer	16
Ounce	4218
Perch	4215
Person	16
Pole	4215
Pound	4218
Process	16
Property	1996
in law of taxation.....	1996
Public school.....	1053
Real estate.....	1996
Residence	33
Rod	4215
Seal	13
Swear	16
Terms used in codes.....	16
Territories	16
Testify	16
Time	4277
Ton	4226
Trademark	4286
United States.....	16
Vessel	16
Week	4280
Will	16
Words and phrases in codes.....	16
Writ	16
Writing	16
Yard	4214
Year	4279

DEFORMITIES

Exhibition prohibited	11262
-----------------------------	-------

DEFAUDING

Obtaining property by false pretenses	11410
---	-------

DEGREES

Of care required—See Care	
Of crime of which conviction may be had.....	11868
jury must find.....	12022
Of kindred, how computed—See Succession ..	7076- 7080

GENERAL INDEX.

DELAY

Appeal	
taken for, penalty.....	9752
to district court, taken for,	
penalty	9760
Liability of carrier for.....	7869
Punishment of attorneys for.....	8979

DELEGATES TO NATIONAL CONVENTIONS

Election of.....	673
------------------	-----

DELEGATION

Of power	
by agent.....	7971
by minors forbidden.....	5678

DELINQUENCY

In taxes—See Taxation	
-----------------------	--

DELINQUENT CHILDREN

See Juvenile Delinquents.....	12275-12301
-------------------------------	-------------

DELINQUENT TAX SALES

Special regulation of sales for	
year 1920—See Taxation....	
.....	2198- 2200

DELIVERY

Grants—See Grants.....	6843- 6848
Negotiable instrument.....	8402
On sales by auctioneers.....	7976
Personal property on sale—See	
Sales	7600, 7601
Pledge, essential to validity.....	8294
Presumption arising from.....	10606
Thing offered in performance, not	
necessary	7442
Thing sold	
buyer's directions.....	7604
expense of transportation.....	7602
notice of election concerning...	7603
where to be made.....	7601
To be within reasonable hours....	7605

DEMAND

For bill of particulars.....	9167
Payment not necessary to hold	
guarantor	8182
Performance by pledgor.....	8307
Return of thing loaned for use,	
when necessary.....	7713
Sale of pledge.....	8314
When necessary	
for the restoration of things	
wrongfully taken.....	7578
to commencement of action,	
time, how computed.....	9058

DEMURRER

After amendment in justice court	
Amendments on decision to, when	
allowed	9189
division of action in discretion	
of court, when.....	9189
Costs on.....	9797
Defendants discharged when re-	
submission ordered.....	11903
Grounds of, to indictment or in-	
formation	11898
How interposed.....	11899

DEMURRER (Continued)

If allowed, bar to another prose-	
cution, when.....	11902

In

eminent domain proceedings...	9942
forcible entry and detainer....	9897
justice courts.....	9641, 9644, 9645
mandamus	9854
Judgment on.....	9373, 11901
in justice courts.....	9665
Matters not appearing on face, ob-	
jection, how taken.....	9135
May be taken to all or part.....	9133
Must specify	
grounds	9157, 11899
what	9132

On

impeachment proceedings.....	11676, 11677
proceedings to remove from of-	
fice	11692, 11693
Pleading of defendant.....	11896
Proceedings if	
disallowed	11905
resubmission ordered.....	11904

To

accusations in disbarment pro-	
ceedings	8960
answer	
counterclaim, to.....	9156
entire, or to part.....	9154
grounds of.....	9153
plaintiff may, when.....	9152
to counterclaim or defense,	
when	9155

complaint

grounds of.....	9131
in justice courts.....	9641
may be taken to all or part..	9133
must specify what.....	9132
objections	
taken by answer, when....	9135
when deemed waived.....	9136
when	9131
counterclaim, grounds for....	9156
reply, grounds of.....	9161
Waiver of summons.....	9106

What objections

not waived.....	11906
taken by.....	11906

When

and where put in.....	11897
heard	11900
stated in language of statute..	9132

DENIAL

Failure of, effect.....	9178
In answer.....	9137
On information and belief.....	9179

DENTAL EXAMINERS, BOARD

OF—See Dentistry

DENTISTRY

Annual dues, payment of.....	3113
Certificate	
filing and fee.....	3110
to be obtained.....	3105

GENERAL INDEX.

DENTISTRY (Continued)

Dental examiners, board of appointment, qualifications and term	3106
compensation	3114
examination of applicants by ..	3109
officers of, powers and vacancies ..	3107
official seals and bonds	3107
report of	3114
Dental register	3111
Dentists from other states	
fess for admission	3108
how admitted	3108
Examination of applicants	3109
fees for	3113
Fees, annual	3113
Opium, permits for use in	3189
Penalty for violation of act	3115
Practicing	
defined	3112
without certificate	3105

DENTISTS

Exemptions ..	9428
---------------	------

DEODAND

Forfeitures in nature of, abolished	11605.
-------------------------------------	--------

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY

See Agriculture, Labor and Industry, Department of	3555-3649
--	-----------

DEPENDENT AND NEGLECTED CHILDREN

See Protection of Dependent and Neglected Children	10465-10479
--	-------------

DEPOSE

Definition ..	10713
Meaning of term	16

DEPOSIT

Bank—See Banks	
City funds, how secured	5036
County funds, how secured	4767
Damages, liability of depositary for ..	7651
Degree of care required of gratuitous depositary	7658
Delivery of thing owned jointly ..	7647
Deposit for exchange, relation created ..	7701
Depositary to deliver on demand ..	7642
Deposit to indemnify depositary, when	7648
Duty of involuntary depositary ..	7639
Eminent domain, in	9950
For	
bail ..	9212
how disposed of, on judgment ..	9215
exchange	
defined ..	7641
relation of parties	7701
safe-keeping, defined	7640
Gratuitous	
deposit, defined	7656
depositary	
degree of care required of ..	7658
duties cease, when	7650

DEPOSIT (Continued)

In	
court	
enforcement of order, how ...	9310
money, how disposed of	9309, 10701
when made	9308
lieu of bail	12154
exoneration of bail by	12155
forfeiture, to whom paid	12166
how applied	12156
lieu of undertaking	9831
in justices' court	9718
on appeal to supreme court ..	9733, 9741
when may be withdrawn	9831
Innkeepers	
how exempt from	
liability ..	7677
penalty ..	7678
liability	
for loss or damage by fire, when ..	7680
of ..	7673
lien	
enforcement of	7682
on baggage	7675
limit of liability	7679
not liable without negligence ..	7681
notice	
may be posted	7674
of sale of property, publication ..	7683
penalty for defrauding	7684, 11579
sale of baggage by, how and when ..	7676
Involuntary	
how made	7638
nature of	7657
Kinds of	7636
Liability	
for damages from wrongful use ..	7651
for injury or loss	7653
of depositary for negligence ..	7655
Money	
in hands of trustee	9308
to be paid to county treasurer ..	9309
No obligation to deliver without demand ..	7643
Notice to owner of	
adverse claim	7645
thing wrongfully detained	7646
Obligation of depositary	
as to use of thing	7650
liability for wrongful use ..	7651
of animals	7649
Of	
security for policies of foreign insurance companies	6155
surplus in foreclosure proceedings ..	9468
On interpleader	9087
Order, how enforced	9310
Place of delivery	7644
Receiving, when bank insolvent ..	11443, 11444
Refunded, when bail given	9214
Return of, on surrender of defendant ..	12159

GENERAL INDEX.

DEPOSIT (Continued)

Sale of	
property for advances, when...	7671
thing about to perish.....	7652
Services rendered by depository..	7654
State funds.....	182, 189
Storage	
application of proceeds when	
sold to pay costs.....	7666
degree of care required.....	7661
deposit for hire.....	7660
fees of officers for selling.....	7672
of unclaimed property by com-	
mon carriers and others....	7667
disposal of proceeds.....	7669
how and when sold.....	7668
responsibility ceases, when...	7670
rate of compensation for frac-	
tion of week.....	7662
sale to pay costs, when.....	7665
termination of deposit.....	7663, 7664
To be paid to clerk.....	10701
Voluntary, how made.....	7637
With sheriff for bail.....	9213

DEPOSITIONS

See also Perpetuation of Testi-	
mony.....	10686-10692
Before state board of examiners	237
By whom used.....	10650
Commission to authorize what....	10648
Defectively entitled, when valid.	11873
Defined.....	10633
Excluded, when.....	10653
How authenticated in homicide	
cases.....	11783
How taken.....	10635
In justice courts	
how taken.....	9722
when taken.....	9669
Interrogatories submitted or	
waived.....	10647
Of witnesses on postponement of	
trial	
effect of.....	9333
when taken.....	9333
On application for search-warrant	
.....	12397, 12398
Once taken may be read at any	
time.....	10654
Postponement of trial for nonre-	
turn of.....	10649
Taken before judge upon notice to	
adverse party, when.....	10651
manner of taking.....	10652
Taken in this state for use in	
other states.....	10655
how taken.....	10658
subpoena to witness	
upon commission.....	10656
without commission.....	10657
Testimony of witness	
in state, when taken by.....	10645
out of state	
taken on commission upon no-	
tice.....	10646
when taken by.....	10644
Trial, when postponed for nonre-	
turn of.....	10649

DEPOSITIONS (Continued)

When complete, for purpose of	
perjury.....	10886
When excluded.....	10653
When used.....	10643
Who may take.....	8875
Witnesses in state	
affidavit for.....	12189
defendant or state may apply	
for.....	12187
magistrate to take.....	12192
material witnesses, deposition,	
how taken.....	12188
notice of application.....	12190
on commitment of defendant...	
.....	11794, 11795
order to take.....	12191
prisoners, how taken.....	12198
right of defendant.....	12193
service of copy of order.....	12191, 12192
subpoena for witnesses.....	12194
testimony	
authenticated.....	12195
reduced to writing.....	12195
sealed and filed.....	12196
use of, as evidence.....	12197
when to be taken.....	12188
witness in jail, deposition, how	
taken.....	12198
Witnesses out of state	
application	
for commission, affidavit.....	12202
to whom made.....	12203
commission	
defined.....	12201
how executed.....	12207
how returned.....	12206, 12207
commission and return open to	
inspection.....	12211
defendant may have, when.....	12199, 12200
duty of commissioner in taking	
interrogatories, how settled and	
allowed.....	12205
notice of application to take...	12203
order for commission, stay of	
proceedings.....	12204
order granted, stay of trial....	12204
return of commission	
delivery to agent.....	12208, 12209
filing.....	12210
receiving and opening.....	12208, 12210
time for.....	12206
use as evidence.....	12212

DEPOSITORY BOARD, STATE

Designation of banks as depos-	
itories.....	182

DEPUTIES

Affidavits to be filed before pay-	
ment of fees.....	4891
Appointment of	
for reward.....	10830
generally.....	420
where filed.....	429
Assessors, appointment and sal-	
aries.....	4877
Auditors	
in first class counties.....	4883
number of deputy county.....	4879

GENERAL INDEX.

DEPUTIES (Continued)

Bonds may be required of.....	507
Bureau of child and animal protection, appointment of.....	340
Chief deputy, county clerk may name	4876
County and township officers may appoint, when.....	4731
commissioners may fix number and salaries	4874
officers	
attorney	4880, 4881
auditor	4880, 4883
not to act as, when.....	412
treasurer	4880, 4882
Extra deputy county officers.....	4878
Fish and game wardens.....	3656- 3662
Importation of nonresident, forbidden	10925-10927
Included in official names.....	4733
Insurance commissioners.....	162
salary of.....	163
May take acknowledgments, when	6909
Must not practice as attorneys..	8992
Number of	
allowed to county officers..	4872- 4875
generally	421
Oath of office, duty to take.....	435
Powers of.....	418
Qualifications of deputy sheriffs.	4879
Register of state lands.....	1819
Restrictions on appointment of...	412
Salaries of deputy county officers	4873
Secretary of state, deputy to....	122
State	
auditor, number of.....	122
examiner, number of.....	219, 220
treasurer, number of.....	122
Superintendent of public instruction, number of.....	122
Treasurer, county appointment of.....	4880- 4882
number of.....	4880

DESCENT

Right of possession of real property not affected by, when..	9025
--	------

DESCENT OF PROPERTY

See Succession.....	7071- 7092
Homestead descends, how.....	6973

DESCRIPTIONS

In order for survey.....	9493
Of	
boats, in actions against.....	9609
real property construction	10683
in pleadings.....	9168

DESECRATION

Of flag.....	11561
--------------	-------

DESERTION

See Divorce.....	5739- 5744
See Wife and Children.....	11017-11022
Minor children, adoption of.....	5866

DESTRUCTION

Contract	7570, 7571
duplicate of.....	7572
Of	
notices, punishment.....	11491
public records.....	10873
Penalty for destroying evidence..	10894
Will	
how proved.....	6996
revocation by.....	6995

DETAINER

See Forceful Entry and Unlawful Detainer	
Penalty for unlawful.....	11300

DETENTION HOME

Establishment for juvenile delinquents	12297
--	-------

DETENTION HOSPITAL

Establishment by cities, towns or counties	2469, 2470
Within city limits forbidden....	11234

DETRIMENT

Defined	8660
---------------	------

DEVICES AND LEGACIES

See Wills.....	6974- 7070
----------------	------------

DILIGENCE

See also Negligence	
Carriers for reward.....	7815
Carriers of messages.....	7845
Employee for his own benefit....	7772
On undertaking service without employment	7810
Trustees	7909

DIMINUTION

Of record on appeal.....	9746
--------------------------	------

DINING-CARS

Licenses	2589
----------------	------

DIOCESAN CORPORATIONS

See Corporations.....	6459- 6461
-----------------------	------------

DIPLOMAS

State board of education may grant	836, 854
--	----------

DIPPING

Livestock—See Livestock.....	3280
------------------------------	------

DIRECT PRIMARY

See Elections.....	631- 670
--------------------	----------

DIRECTED VERDICT

Court may order, when.....	9364
In criminal cases, court may advise	11995

DIRECTIONS

Carrier must follow.....	7822
Employee must follow.....	7774
Factor must follow.....	7809
Seller must follow as to delivery	7604
Trustee must follow.....	7908

DIRECTORS

See Banks and Banking.....	6014- 6109
See also Corporations.....	
.....	5933-5942, 11436-11458

GENERAL INDEX.

DIRECTORS (Continued)

Of corporations, limitations applicable 9061

DISABILITIES

Action not to abate by reason of, when 9086
Effect of co-existing disabilities upon limitations..... 9057
Excluded from statute of limitations, when..... 9026
Time for commencement of action 9049
Who may claim..... 9056

DISABLED PERSONS

See Vocational Rehabilitation 3044- 3051
See also Workmen's Compensation Act

DISAFFIRMANCE

Minors, contract for necessities.. 5681
Minors, contracts of..... 5679
Minors, how and when..... 5680
Persons of unsound mind..... 5681

DISBARMENT

Lawyers—See Attorneys-at-Law.
.....8951- 8957

DISBURSEMENTS

See Costs.....9787- 9815
Defined 9802

DISCHARGE

Convict entitled to what..... 12458
Fugitive from other states, 12425, 12426
Guarantor
by acts of creditor..... 8188
by delay..... 8192
by discharge of principal..... 8194
Guardian, when..... 5889
In habeas corpus proceedings...
.....12360-12362
Of
defendant
during continuance..... 12225
for lack of evidence, effect of 11976
on
acquittal in justice court.. 12330
acquittal on appeal to district court..... 12340
dismissal of action..... 12226
preliminary examination, when and how..... 11785
return of verdict, when... 12034
reversal of judgment without new trial order..... 12129
procedure when offense committed
in state.....11992, 11993
out of state..... 11991
to become witness.....11974, 11975
when committed, on payment of fine and costs..... 12072
grand jury, when..... 11819
jury
for lack of jurisdiction..... 11990

DISCHARGE (Continued)

Of (continued)
jury (continued)
for sickness after retirement. 12013
of juror, when ill..... 12000
in justice courts..... 12324
not to be discharged, when.. 12014
when facts do not constitute offense 11994
pauper prisoner, when..... 12071
persons imprisoned on civil process—See Imprisonment.9875- 9886
Servant 7800
Soldier's certificate of, recording without cost..... 5654
Surety, by acts of creditor..... 8201

DISCLOSURE

Of facts transpiring before grand jury 10947
Of filing indictment or information, penalty..... 10946
when forbidden 11867

DISCOVERY NOTICE

Mining claims..... 7365

DISCRETION OF COURT

Allowance of costs..... 9789
Costs
in eminent domain..... 9953
in partition.....9539, 9570
on appeal..... 9791
on continuance 9793
Evidence on collateral questions. 10529
Form of oath..... 10695
Order of
proof 10659
trial 9349
Stay in certiorari..... 9841
Trial by jury in mandamus..... 9853
View of premises by jury..... 9350

DISCRIMINATION

See Restraint of Trade....10901-10915
By common carrier pipe lines prohibited 3854
misdemeanor 3856
By hospitals forbidden....11577, 11578
In charges by public warehousemen, prohibited..... 3585
In purchase of dairy products prohibited 2630
Insurance companies, forbidden..
.....6121- 6123
Railroads—See Railroads...6521, 6571
Surety companies forbidden..... 6230

DISEASE

See Health, State Board of
See also Quarantine
Animals—See Livestock....3260- 3295
see also Diseased Animals
Communicable, defined 2457
Exposing
infected clothing..... 11503
person infected with contagious 11257
Instruction concerning, in public schools 1073

GENERAL INDEX.

DISEASE (Continued)

Lepers, disposal of.....	2461
Orchards—See Orchards	
Permitting diseased animals to run at large.....	11556
Prisoners, epidemic among.....	2482
Quarantine measures.....	2458
Regulation of—See Health, State Board of.....	2444- 2484
Removal of persons in case of..	12479
Sale of diseased animals forbidden	11263
Vaccination of school children...	2481
Venereal—See Venereal Diseases	2562- 2577

DISEASED ANIMALS

See also Livestock.....	3260- 3295
Burial of	3287
Not to run at large.....	3287
Notice to state veterinary surgeon	3286
Payment for, when slaughtered by livestock sanitary board.	3271

DISGUISE

Unlawful, when	11571
----------------------	-------

DISINTERMENT

Of dead bodies.....	11032, 11033
---------------------	--------------

DISMISSAL

Actions	
to be dismissed, when.....	12223
when entered	9317
Bar to subsequent prosecution, when	12229
Case may be continued, when....	12224
Continuance and discharge from custody, when.....	12225
Costs	9321
Defendant to be discharged on... exoneration of bail.....	12226
Effect of.....	9320
If security for costs not given..	9808
Judgment of	
in district courts.....	9317
in justices' courts.....	9680
Nolle prosequi abolished.....	12228
Of	
action effect on counterclaim as to limitations	9060
appeals to	
district court, when.....	9760
supreme court—See Appeals to Supreme Court.....	12119- 12121
effect of	9747, 9748
On motion of court or application of county attorney, when....	12227
When court may enter.....	9317

DISORDERLY HOUSES—See Prostitution

DISPATCHERS

Railroad, intoxication on duty...	11253
-----------------------------------	-------

DISQUALIFICATION

Affidavit, filing and effect.....	8868
Of	
board of examiners to pass on certain claims.....	246

DISQUALIFICATION (Continued)

Of (continued)	
judges	
change of place of trial—See Actions	9098, 9099
from acting in probate matters, when	10120
in police courts.....	5090
when and how effected.....	8868
jurors	9344
public officers, generally—See Public Officers.....	410- 418
state officers	267
Officers convinced of certain offenses	10861
Witnesses	10535

DISSECTION

Unlawful removal of body for....	11033
----------------------------------	-------

DISSOLUTION OF CORPORATIONS

Banks, how effected.....	6035
By district court	
appeals from judgment, how taken	9928
application	
contents of.....	9923
how signed and verified.....	9924
notice and publication.....	9925
corporations, how dissolved....	9922
directors trustees of creditors..	9927
hearing of application, how conducted	9927
how dissolved.....	9922
judgment of dissolution, when entered	9927
judgment-roll, contents of.....	9928
objections to application, when filed	9926
How effected.....	6010, 6011
On sale of property.....	6005
Voluntary dissolution by act of directors	
directors to file statement, contents of.....	9930
effect of filing statement.....	9931
with reference to foreign corporation	9932
what corporations may dissolve	9929

DIstillates

See Gasoline and Oils.....	4201
Taxation of dealers—See Taxation	2381- 2396

DISTRIBUTION OF ESTATES—

See Probate Proceedings

DISTRICT CLERK

See Clerk of District Court..	4815- 4818
-------------------------------	------------

DISTRICT COURTS

See also specific boards, commissions and departments for law regulating appeals from orders	
See Courts—See also District Judges	
Accommodations for, how provided	8856

GENERAL INDEX.

DISTRICT COURTS (Continued)

Actions, how prosecuted in.....	11622
Adjournment—See Adjournment	
Admonition to jury.....	9351
on separation.....	11999
Amendments to pleadings, when allowed	9187
Appeals to	
See Appeals.....	9754- 9761
from order of county commissioners	4610
Appellate jurisdiction, when....	8830
Applications to, renewal prohibited, when.....	8877
Arrest of judgment, discretion...	12052
Bill of exceptions, settlement after expiration of judge's term	12040
Change in place of holding, when parties to appear at appointed place	8855
Change of venue.....	9098- 9100
Contempts before—See Contempts	
Criminal actions, how prosecuted in	11622
Departments	8832
Disqualification of judge, when and how.....	8868
Duty as to arrest of fugitive from other state.....	12426
Eminent domain, powers in.....	9943
Ex parte matters, power to hear at chambers.....	8867
Excepted from county budget act	230
Findings of fact and conclusions.	9367
Guardianship proceedings, powers in	10463
Habeas corpus, may grant.....	12350
Illness of judge, discharge of jury	12000
Instructions	
given as to what.....	10672
how and when given.....	9349
Judge	
information against, procedure.	11930
liable in damages on refusal to grant order for writ of habeas corpus	12380
magistrate	11619
may authorize arrest by telegraph	11767
to sign bill of exceptions.....	12044
Judges of other districts may hold, when.....	8821, 8823
Judicial districts	
defined	8812
number of judges in.....	8813
Jurisdiction	
after remittitur from supreme court	12132
criminal	11631
defined	8828
in violations fish and game laws	3756
original, scope of.....	8829
Jurisdiction on	
adoption of children.....	5861

DISTRICT COURTS (Continued)

Jurisdiction on (continued)	
appeal from appraisement of corporate property.....	6007
appointment of guardians—See Guardian and Ward....	5868- 5889
review of corporate elections..	5949
Jurisdiction over orders of state board of health.....	2654
Magistrate to make return on search-warrant	12413
May	
advise jury to acquit, when....	11995
commit children of divorced parents to state orphans' home	1504
dispense with security on appeal, when.....	9739
order filing of information....	11625
when	11803
Naturalization, powers concerning	8829
Number of judges in each district.	8813
Order to	
bring prisoner in another county before	12432
confine in jail of contiguous county, when.....	12474
Original jurisdiction, in what cases	8829
Powers	
at chambers.....	8867
as to incorrigibles.....	12505
over cemetery associations.....	6494
respecting conduct of business.	8844
Probate proceedings, power at chambers	10027
Proceedings in English language.	8880
Process, extent of.....	8831
Prosecution in, by information or indictment	11622, 11623
Questions of law	
addressed to	10699
decisions by court.....	12001
Reduction of punishment found by jury.....	10231
Right to appoint and remove trustees	7924- 7927
Rules, power to make.....	8845
Salaries of judges.....	8814
Seals of.....	8857- 8859
Settlement of bills of exception—See Exceptions.....	9386- 9394
Sheriff to provide rooms and accommodations, when.....	8856
Sittings private, when.....	8848
Stenographers, appointment and duties	8928- 8930
Summary removal of officers by..	11702
Terms	
in districts of more than one county	8827
of court, when and how called and held	8826
Transfer	
of actions affecting real estate.	4415- 4419
on creation of new counties....	4403
to, from justice courts.....	9625

GENERAL INDEX.

DISTRICT COURTS (Continued)

Trial	
by, decision in writing.....	9366
jury—See Juries	
Vacancy not to affect proceedings	8879
Writs, power to issue.....	8829, 8867

DISTRICT JUDGES

See also District Courts	
Approval bonds of	
county and township officers...	471
county commissioners.....	4455
Certify costs on removal criminal actions.....	4954
Contempts before—See Contempts	
Dams and reservoirs, appointment of examiners.....	2660
Directed verdict, when.....	9364
Disapproved claims, power to order payment of.....	4830
Disqualified from acting in probate matters, when.....	10120
Disqualified, when and how.....	8868
Duty to assign counsel for defendant, when.....	11886
compensation of attorney, how fixed	11887
Election and term, reference to law	4730
Entry of townsites for unincorporated towns—See Cities and Towns	5331-5365
Expense account, how audited and paid	8817
Expenses	
when holding court in other counties	8824
itemized statement, verification and filing.....	8825
when sitting out of district....	8816
audit of account.....	8817
Governor may require to hold court, where.....	8823
Grand jury, powers concerning—See Grand Jury.....	11806-11840
Holding court in other districts on request	8821
Information against, how tried...	11930
May fill vacancy in board of county commissioners.....	4454
New trial, duties on motion for..	9400-9402
Number in each district.....	8813
Permits to carry concealed weapons, procedure.....	11306
Powers	
as to conduct of proceedings...	8873
at chambers.....	8867
concerning boxing and wrestling—See County Athletic Commission	4551-4562
of judicial officers generally....	8873
out of court..... generally....	8872
to	
extend time, when.....	9823
issue and hear writs.....	8867
take acknowledgments.....	8875
Practice of law forbidden.....	8869-8871
law partner forbidden.....	8870

DISTRICT JUDGES (Continued)

Pro tempore.....	8822
Qualifications	8863
Reapplication to, for refused orders forbidden.....	8877, 8878
Reside where.....	8864
Salary of.....	8814
restrictions on payment of....	8815
Term of office, commencement of.	8818
Terms of court, in districts having more than one.....	8832
To order grand jury, when.....	11806
Trial of civil actions by judge pro tem	8822
Vacancies	
how filled.....	8820
in office of county commissioner, power to fill.....	4454
Writs, power to issue.....	8829, 8867
Years of office, how computed:...	8819

DISTRICTS

Congressional, defined.....	48
Judicial, enumerated.....	8812
Judicial, reference to.....	49
School—See Schools, Public.....	1020-1039
Senatorial, defined.....	42

DISTURBANCE

Of	
certain public meetings.....	11284
passengers on railway trains...	11316
police power of conductors...	11317
religious meetings.....	11042
the peace.....	11297
Public schools, punishment for...	1083
Procedure to quell—See Riots.....	11655-11667
Refusal to disperse, misdemeanor.	11298

DITCH COMPANIES

Articles of incorporation, contents	5906
---	------

DITCHES

See Water and Water Rights.....	7093, 7135
Assessment of—See Taxation.....	2021, 2123, 2138-2146
Construction by road supervisor.	1630
Damages for overflowing highway	1732, 1738
Duty of owner when road crosses.....	1647, 1733
Duty of railroads to construct....	6599
Interference with.....	11467
No damages for right to cross, when	1647
Permits to cross highways.....	1733
Permitting to overflow highways.	11531

DIVIDENDS

Bank	
regulation of.....	6048, 6072
report of declaration.....	6072
Corporations	
on bearer certificates.....	5963
to make from surplus profits, penalty	5939
Misconduct of directors.....	11441

GENERAL INDEX.

DIVISION POINTS

Railroads to compensate employees for damages on removal.....	6623
proviso, notice.....	6624

DIVORCE

Action to be commenced, when.....	5762- 5765
Advertising to procure, forbidden.....	11564
Alimony, granting of.....	5771
notice of hearing on application.....	5781
pendente lite.....	5769
security for.....	5772
Cause to continue one year, when.....	5749
Causes for	
adultery defined.....	5737
certain causes to continue one year.....	5749
conviction of felony, action, when commenced.....	5762
extreme cruelty defined.....	5738
habitual intemperance defined.....	5748
wilful desertion	
consent to separation revocable.....	5743
defined.....	5739
home, leaving constitutes desertion, when.....	5745, 5746
how cured.....	5744
separation and intent.....	5742
separation by consent.....	5741
who commits.....	5740
wilful neglect defined.....	5747
Causes for denial	
collusion.....	5752
condonation.....	5753
concealment of facts avoids.....	5758
evidence of.....	5756
implies what.....	5755
requisites for.....	5754
revocation of.....	5759
when made.....	5757
condonation bars, when.....	5761
connivance.....	5751
defined.....	5750
recrimination defined.....	5760
Collusion defined.....	5752
Condonation	
bar to defense, when.....	5761
can be made, when.....	5757
concealment of facts voids.....	5758
defined.....	5753
evidence of.....	5756
how revoked.....	5759
implies what.....	5755
requisites for.....	5754
Confession of adultery does not justify.....	10685
Connivance, what constitutes.....	5751
Default not granted.....	5767
Denied when.....	5750- 5762
Desertion—See subtitle causes for.....	5739- 5746
Effect of judgment.....	5735
Expense money, award of.....	5769
Extreme cruelty defined.....	5738
Grounds for, must continue how long.....	5749

DIVORCE (Continued)

Habitual intemperance defined....	5748
Homestead, disposal of.....	5777
judgment concerning.....	5778
judgment, revision on appeal....	5779
Judgment, how enforced.....	5769
Laches prevents, when.....	5762
Lapse of time, presumption, when.....	5763
Legitimacy of children on divorce for adultery of	
husband.....	5775
wife.....	5776
Limitations on time of action....	5765
Maintenance awarded, though divorce denied.....	5768
Notice of hearing on application for alimony.....	5781
Poor woman may sue without cost.....	5780
Presumption from unreasonable lapse of time.....	5763
rebuttable.....	5764
Proof to be taken.....	5767
Recrimination, what constitutes..	5760
Residence, required of plaintiff..	5766
Security for support.....	5772
Sitting of court, when private....	8848
Suits in forma pauperis, when....	5780
Support of children, how compelled.....	5771
property subject to.....	5774
Support withheld, when.....	5773
Time for commencing action.....	5765
When denied.....	5750- 5762
Wilful desertion defined.....	5739
husband may select home.....	5745
unfit dwelling place as desertion by husband.....	5746
Wilful neglect defined.....	5747

DOCKETS

Justice and police courts.....	9703-9710, 12304
Of judgments in district courts..	9411, 9412

DOCKS AND WHARVES

Charges for use.....	1606
Land under water defined.....	1608
License to build	
restrictions.....	1605
revocations of.....	1607
Public use of.....	1606
Railroad commission, jurisdiction.....	1609, 3818
Who may build.....	1605

DOCTORS

See Physicians and Surgeons	
See, also, specific medical professions	
Examination of insane persons by.....	1433- 1441

DOCUMENTS

See Public Documents.....	138- 140
See Writings	
Altering public, penalty.....	10873
Forgery of.....	11355
How proved.....	10568

GENERAL INDEX.

DOGS

Are personal property.....	11375
Chasing game with prohibited....	3720
Dogging livestock prohibited....	11552
Promoting fights between.....	11514
Use of, in hunting, when permitted	3694

DOMESTIC ANIMALS—See Animals—See Livestock

DOMESTIC INSURANCE CORPORATIONS

Defined	6111
---------------	------

DOMESTIC RELATIONS—See Guardian and Ward—See Husband and Wife—See Parent and Child

DOMICILE—See Dwelling Houses— See Residence

DOMINANT TENEMENTS

See Servitudes.....	6749, 6759
Defined	6751

DONATION

See also Contributions	
Words of, in will.....	7034

DOOR-KEEPER

House of representatives.....	63
Senate	62

DOORS

Persons making arrest may break	11761, 11762
Persons serving search-warrant may break	12402, 12403

DOUBLE INSURANCE

Contribution, when and how compelled	8148
Exists, when	8147

DOUBT

As to degree of crime, conviction, how	11972
Presumption of innocence.....	11971

DOWER

Action for recovery, when commenced	9015
Acts of husband not to affect right	5828
Antenuptial settlement in lieu of assent to, how expressed.....	5824
Assignment, by what law regulated	5825
Assignment of dower out of estate—See Probate Proceedings	5829
Attaches only on absolute title...	10158-10169
Defined	5817
Equitable estates subject to....	5813
Guardian may sell dower of insane married woman, when.....	5813
In surplus under mortgage.....	10416
May be assigned anew, when....	5816
Mortgaged lands subject to.....	5826
	5814

DOWER (Continued)

Nonresident wife need not sign deed	5818
Relinquished, how	5813
Renunciation, form of.....	5820
Right of widow when no issue....	5821
Right when lands exchanged....	5822
Rights in lands alienated.....	5823
Sale of interest on partition.9567,	9568
Subject to purchase money.....	5815
Waste not to be committed.....	5827
Widow entitled to.....	5813
Widow may elect.....	5819
Widow's rights when no children.	5821

DRAFTS

Banks may deal in.....	6087
------------------------	------

DRAIN DISTRICTS

Adjournment in certain cases....	7274
Advertisement of contract.....	7345
Affidavit in case of nonresident petitioners	7269
certificate of clerk.....	7269
Amendments to petition.....	7266
Annual report of commissioners..	7287
Appeals to supreme court from order of confirmation.....	7299
Apportionment costs of construction	7311
Assessment for construction.....	7325
annual installment	7325
Assessments	
additional assessments, procedure to levy.....	7338
against annexed lands.....	7354
against certain corporations, when payable	7332
change in, not to affect bonds..	7358
collection when lands in more than one county.....	7330
confirmation of report.....	7355
district taxes, how certified and collected	7329
have effect of judgment.....	7357
illegal, cost how defrayed.....	7342
landowners may agree to omissions	7361
lien of	7326, 7357
not to be obstructed by preliminary defects	7363
omissions, how corrected.....	7339
payment of assessments against state land	7326
procedure on failure to certify..	7333
rules of law applicable to collection	7331
Benefits, reports concerning.....	7307
Bond of commissioners.....	466
Bonds—See subtitle borrowing money	
Borrowing money	
bonds or notes, procedure to issue	7343
use of money.....	7343
Boundaries	
appeals	7319
bond of commissioners.....	7319

GENERAL INDEX.

DRAIN DISTRICTS (Continued)

Boundaries (continued)	
clerk to mail notice to land-owners	7317
confirmation of report	7319
extension or reduction	7315
modification of report	7318
most feasible plan to be used	7314
notice of hearing of report	7316
of proposed district	7291
report of commissioners	7315
reports concerning	7305
supplemental report	7321
Commissioners	
annual report	7287
annual report as to repairs and upkeep	7327
appointment and compensation of attorneys	7291
appointment and preliminary bond	7280
bond	7281
bonds, regulation of	7356
burden of proof	7359
compensation	7288
corporate authority of district	7301
court to control	7289
court to hear annual report	7328
court to supervise	7356
duty to adopt feasible plan	7292
engineers, appointment	7291
interest in contracts forbidden	7346
oath	7281
organization	7291
presumption as to regularity of acts	7359
quorum	7281
record and vouchers	7285
residence and disqualification	7280
right of entry on lands	7334
right to construct drains across railroads	7335
liability to railroad for cost	7336
railroads to permit construction, penalty	7337
secretary	7291
suits on bonds	7290
term of office	7282
unexpired term, appointments for	7283
vacancies in board, how filled	7284
Construction of act	7362
Contest on hearing	7275
Contracts, how let	7345
Contribution among petitioners	7324
Costs	7297
Costs, reports concerning	7308
Costs, statement of, before entry of judgment	7323
County treasurer custodian of funds	7286
Created, how	7265
Custody of funds	7286
Damages, payment on tender	7347
deposit with clerk of court	7347
Dismissal of petition	7297
Dismissal of proceedings, judgment on	7322

DRAIN DISTRICTS (Continued)

Drains, how laid out	7348
Duty of railroads to maintain	6599
Engineer's appointment	7291
Engineer's preliminary report	7291
Exemption of land, procedure	7340
appeals to supreme court	7341
owner to assert claims	7341
Extension of boundaries	7315
alteration by court	7315
Fraudulent deeds	7278
Further publication	7274
Hearing on petition	7268
contents of notice	7268
court to order notice	7268
posting	7268
publication	7268
service	7268
Illegal assessments, cost, how defrayed	7342
Injured lands, reports concerning	7306
Judgment on dismissal of proceedings	7322
Judgment, statement of costs before entry	7323
Landowners may agree to omitted assessments	7361
Maps and surveys, preparation	7303
Most feasible plan to be used	7314
alteration by court	7314
Notice, how served	7273
Omissions, how corrected	7339
Order of confirmation	
appeals	7299
conclusiveness	7299
entry	7298
Order of confirmation on change of boundaries	7319
modification	7320
Organization as body corporate	7300
Personal service of notice to confer jurisdiction	7271
Petition	
affidavits may be received	7277
dismissal, cost	7279
finding as to sufficiency	7280
for creation, contents	7265
sufficiency, how determined	7276
Petitions, how circulated	7266
Preliminary proceedings declared necessary	7302
Preliminary report of engineers	
adjournment of hearing	7294
contents	7291
costs	7297
dismissal of petition	7297
execution of writs	7293
hearing on	7293
issue tried	7297
publication of notice	7293
remonstrances by interested parties	7295
service on owner of added lands	7296
Procedure on insufficient service	7272
Procedure to bring other drained lands into district	
appeals to supreme court	7353

GENERAL INDEX.

DRAIN DISTRICTS (Continued)

Procedure to bring other drained lands into district (continued)	
assessments against annexed lands	7354
confirmation of report	7355
findings and order of court...	7352
order of court conclusive	7353
order to show cause	7350
procedure	7349
protest against confirmation of report	7351
trial of issue	7351
Procedure to exempt land	7340
Proceedings on adjourned day...	7274
Proof of service and publication.	7270
Railroads	
duty to permit construction...	7337
liability of district to, for costs	7336
right to construct drains across.	7335
Record and vouchers	7285
Reduction of boundaries	7315
alteration by court	7315
Refunding indebtedness, procedure	7344
Repairs and upkeep, annual report	7327
Repealing clause, exceptions	7364
Report	
assessment against lots and corporations	7309
benefits	7307
boundaries	7305
costs	7308
costs of upkeep	7312
injured lands	7306
routes and termini	7304
special benefits to corporations	7310
Report of commissioners	7315
Report to include maps	7313
Routes and termini, reports concerning	7304
Service on publication of notice..	7273
Service on state land board	7265
Special benefits	7310
State lands, how included in	7265
Suits on bonds of commissioners..	7290
Supplemental report	7321
Taxation—See subtitle assessment	
Territory need not be contiguous.	7267
Upkeep, report concerning	7312
Vacancy in board, how filled	7284
Waiver of defective service	7360
Who may petition for creation...	7265

DRINKING WATER

In hotels, regulation of	2497
--------------------------------	------

DRIVING

See also Highways	1742- 1754
Over bridges, how regulated	11252

DROUGHT RELIEF

See Counties	4640- 4710
--------------------	------------

DRUG ADDICT

See Opium and Opiates	3194- 3199
-----------------------------	------------

DRUGGISTS

See Pharmacy	3170- 3202
Adulteration of drugs forbidden..	11241
Exempt from jury duty	8892
Improper filling of prescriptions..	11238

DRUGGISTS (Continued)

Not to prescribe for venereal diseases	2573
Omission to label drugs	11238
Opiates, improper sale of	11239
Permits for sale of intoxicating liquors—See Intoxicating Liquors	11048-11133
Prescriptions for sale of liquor, regulation of	11053
Sale of spoiled drugs forbidden..	11242

DRUGS

See also Opium and Opiates	
See also Pure Food and Drug Act	2578- 2599
Adulterated, forbidden	3184
list to be published	2463
License to itinerant vendors of...	2429
Opium, regulation of sale—See Opium and Opiates	3189- 3202
Penalty for furnishing to inebriates at hospital	1455
When misbranded	2587
Wrongful compounding or sale of.	3181

DRUNKARDS

Drivers	
discharge	1746
employment as, forbidden	1745
Habitual, are persons of unsound mind	5676

DRUNKENNESS

See also Intoxicating Liquors	
No excuse for crime	10728
how far considered	10728
Physicians intoxicated, injury to persons	11193
Recovery of damages for injury by intoxicated persons	11065
Vagrancy	11521

DUCKS

Limit on number	3703
Open season for	3703

DUELS

Damages, extent of	8697
Defined	10981
Duty of officers to prevent	10985
Jurisdiction of actions	11705, 11706
Killing or injuring person in, liability of slayer	8698
Leaving state to evade laws concerning	10986
Posting for not fighting	10984
Punishment when death does not ensue	10983
Punishment when death ensues ..	10982
Witnesses, privileges of	10987

DUPLICATE

Alteration of contract, effect of..	7572
Of lost	
county bond or warrant	4626- 4630
state warrant	159
will, revocation of	6997

GENERAL INDEX.

DUPLICATE ASSESSMENT BOOK

—See Taxation

DURESS

Avoids contract	7475
Defined in law of contract.....	7477
Effect on title to negotiable instrument	8462
Effect on wills.....	6976
Ground for rescission of contract	7565
Kidnaping, consent no defense...	10972
What constitutes	7477
When a defense.....	10729

DWELLING-HOUSES

See also Landlord and Tenant	
Exclusion of husband or wife from	5785
Husband may choose.....	5783
Term of hiring presumed, when..	7744

DYING DECLARATIONS

May be given in evidence, when..	10531
----------------------------------	-------

DYNAMITE

See Explosives	2786, 2815
Penalty for destruction of buildings by	11477
Use in fishing prohibited.....	3717

EARNINGS

See also Wages	
Judgment debtor exempt from execution, when	9429
Minors, to whom paid.....	5849
Wife, liability for husband's debts —See Husband and Wife....	
.....	5795- 5800

EASEMENTS

Actions by owner or occupant of dominant tenement	6757
by owner of servient tenement.	6758
Apportionment of	6755
Attached to land, defined.....	6749
By whom grantable.....	6752
By whom held.....	6753
Estates, designation of.....	6751
Extent of servitudes.....	6754
How extinguished.....	6759
Not attached to land, defined....	6750
Pass with property.....	6760, 6865
Rights of owner of future estate	6756
What are.....	6749

EDITORS

Liability for publication of libel—See Libel.....	10993-10999
Political criminal libel.....	10800

EDUCATION

See Schools, Public, for law governing public schools.....	830- 1329
See State Institutions for reference to all state educational and charitable institutions	
See also Education, State Board of	
Bonds for support of state educational, penal and reformatory institutions—See Bonds	5606- 5614

EDUCATION (Continued)

Children, liability of husband and wife for.....	5790
Contents of articles of incorporation	5906
State institutions which may take by will or gift.....	6978
persons who may bequeath to..	6979

EDUCATIONAL BONDS

See Bonds.....	5606- 5614
Investment	
permanent fund.....	5614
sinking and interest fund.....	5613

EDUCATIONAL FUNDS

Investment in farm loans—See State Lands.....	1928- 1948
---	------------

EDUCATION, STATE BOARD OF

Annual report of.....	836
Appointment and term.....	830, 831
Certificates	
how obtained.....	837
life, how obtained.....	838
registration of.....	839
revocation of.....	840
state, to whom issued.....	837
to whom issued.....	838
Compensation	835
Composition of.....	114, 830
Diplomas and degrees, power to grant	836, 854
Expenses, allowance of.....	835
Gifts and donations, how made..	851
Local executive boards	
compensation of members.....	846
control of.....	836
expenditures by state board of examiners.....	850
creation of.....	842
meetings	845
members of.....	848
officers of.....	843
powers and duties.....	847
limitations on.....	847
powers of.....	842
residence of members.....	842
secretary	843
term of office.....	844
treasurer, bond of.....	843
vacancies in, how filled.....	849
Meetings	835
Membership	830
Oath of office.....	832
Officers of.....	833
Powers and duties.....	836
President and faculty, power to appoint	836
Quorum	834
Refund of fare to students.....	860
Seal of.....	836
State institutions controlled by	836, 841
Treasurer of.....	833

GENERAL INDEX.

EGGS

Candling before sale.....	2638
Cold storage and preserved, regulation and sale.....	2637
Definition of terms.....	2636
Foreign, notice to purchaser....	2635
Incubated, defined.....	2635
Penalty for violation of act.....	2639
disposal of fines.....	2639
Preserved eggs, regulation of....	2637
Regulation of sale.....	2634
Sale of bad eggs.....	2585

EIGHT-HOUR LAW

See Hours of Labor.....	3068- 3083
Applies to Carey land board contracts	1962
Penitentiary guards.....	12441, 12442

EJECTMENT

See Adverse Claims to Real Property	9489- 9500
Passengers	7864, 7865

ELECTION

Justices of the peace.....	8833
Justices of the supreme court....	8790
Plaintiff required to elect between arrest, injunction or attachment, when.....	9311
court to decide, when.....	9311

ELECTION CONTESTS

See Corrupt Practices Act..	10803-10820
See Elections—Subtitle contests	
Salaries withheld pending....	451, 452

ELECTION FRAUDS AND OFFENSES

Acts avoid elections, when.....	10772
Aiders and abettors, penalty....	10756
Ballots	
adding to or subtracting from	10755
changing or altering by officers, penalty	10752
destroying, penalty.....	10749
exhibition of, penalty.....	10760
marking for identification, penalty	10760
unfolding or marking by judges, penalty	10753
voting spurious ballot.....	10760
Betting on elections, penalty....	10767
Bribery, what constitutes.....	10769
Bribing members legislative caucus	10764
Canvass of returns, interfering with, penalty.....	10749
Certificate of nomination, forging, altering or suppressing, penalty	10758
Conviction of violation voids election, when.....	10772
Crimes against.....	10747
Destroying or defacing election supplies	10760
Disturbance of public meetings..	10766
Election laws, violation of, penalty	10747

ELECTION FRAUDS AND OFFENSES (Continued)

Electioneering by officers of election	10759
Electors, intimidation and corruption of.....	10757
Employers, unlawful acts of....	10770
Entertainments at personal expense, penalty.....	10761
Fines, disposal of.....	10771
Intimidating voters.....	10757
Legislative assembly, offenses against—See Legislative Assembly	10834-10852
Legislative caucus, bribery of members, penalty.....	10764
Marking ballots for identification	10760
Money furnished to promote election, penalty.....	10761
Offer to appoint to office communication of, penalty....	10763
penalty	10762
Officers not to electioneer, penalty	10759
Political convention, bribery of members of, penalty.....	10764
Poll-lists, changing or destroying	10749
Public meetings	
disturbance of.....	10766
preventing	10765
Registration, fraudulent, penalty	10748
Returns	
altering or destroying by officers, penalty.....	10752, 10754
destruction, penalty.....	10749
forging or altering, penalty....	10754
Supplies, removal or destruction penalty	10760
Violation of laws, punishment when not prescribed by code	10768
Voters, intimidation of, penalty..	10757
Votes, adding to or subtracting..	10755
fraudulent, penalty.....	10749
procuring illegal voting.....	10751
Workmen, unlawful acts of employers toward.....	10770

ELECTIONEERING

At polling place forbidden.....	693
---------------------------------	-----

ELECTIONS

Absent voters' law—See subtitle voting by absent electors	
Appliances, by whom provided..	598-611, 4515
Ballot	
absent voters, form of.....	717
all elections to be by.....	539
arrangement of.....	681
blank space and margin.....	683
box or pouch to be provided....	604
county clerk to print.....	678, 686
delivery to	
elector	695
judges	603
directions for casting.....	693
duty of county clerk.....	678
elector may vote for any person	678
expense of, how paid.....	677
form and contents of.....	681-686
manner of voting.....	701

GENERAL INDEX.

ELECTIONS (Continued)

Ballot (continued)	
marking	
and casting vote.....	696
for identification forbidden..	693
number to be provided.....	687
official stamp thereon.....	695
party to be indicated.....	682
pasting in case of vacancy.....	680
pasting or writing names on...	678
printing and distribution.....	
.....677, 681,	686
putting in box.....	702
selection in case of double nom- ination ..	682
size of.....	681
spoiled ballot.....	698
stamp to accompany.....	608
stub, size and contents.....	684
uniformity of size.....	685
voter may take data to assist in marking ..	678
when to be prepared and printed	740
writing in names on.....	678
Bank, how conducted.....	6038
Blanks, county commissioners to furnish ..	602
Bond issues, number signers re- quired on petition.....	1252
Booths	
construction and number of...	692
elector to vote without inter- ference.....	693
expense of, how paid.....	694
time voter may occupy.....	697
when dispensed with.....	692
Bribery of voters, penalty.....	667
Canvass and return of votes	
ballots, stringing and enclosing in envelope.....	779
canvass to be public and with- out adjournment.....	774
clerk to file papers.....	789
counting and tallying votes....	778
custody of returns.....	784
excess ballots, destruction of...	776
filing ballots and stubs.....	786
judges to keep certain papers and ballot-box.....	783
mode of canvassing.....	775
poll-books, signature and cer- tification ..	781
rejected ballots.....	780
returns	
delivery to county clerk....	785
disposal of, prior to canvass	788
how made.....	782
keeping pending contest.....	787
what ballots to be counted....	777
Canvass of returns	
board to declare persons elected	796
certificates, issuance by clerk..	797
county canvassing board	
absentees, supplies by, when	791
canvass to be public.....	793
postponement, when.....	792
recount, when had.....	796
sending for returns.....	792
to meet, when.....	790

ELECTIONS (Continued)

Canvass of returns (continued)	
defects in returns.....	806
plurality to elect.....	795
returns for joint members of house	
duty of clerk receiving.....	800
how made.....	798
how transmitted.....	799
returns for state officers	
how made.....	801
how transmitted.....	802
state board of canvassers	
composition and meetings...	803
governor to issue commissions	805
sending for returns.....	804
pay of messenger.....	804
statement of result to be en- tered ..	794
tie vote, proceedings on	
judicial officers.....	812
representative in congress...	809
state officers.....	810, 811
votes not to be rejected for in- formality ..	793
who declared elected.....	796
Cards with instructions to voters	607
Central committeemen, election of	632
Certificates	
as evidence.....	56
issued by county canvassing board ..	4515
of county officers.....	4516
of election, issuance by clerk...	797
Challenges	
grounds for.....	706
conviction of felony.....	709
how determined.....	710
judges to test qualifications of persons challenged.....	573
list of challenges to be kept...	714
oath to be tendered.....	707, 708
proceedings on.....	707-709, 10792
determination ..	713
to	
registration, how made.....	573
voting, oath may ..	711
vote rejected, when.....	712
Cities and towns—See Cities and Towns ..	5003- 5012
City clerk to perform duties, when	679
Clerk of supreme court, when elected ..	370
Clerks	
appointment ..	593
compensation ..	591
duty to mail notices of election	594
oath ..	596
to keep list of voters.....	705
Commissions, issuance by governor	805
Congressmen	
certificates issued by governor	828
representatives, when elected..	826
returns, how made.....	827
Constitutional amendment, publi- cation of.....	537
Constitutional provisions.....	111

GENERAL INDEX.

ELECTIONS (Continued)

Contests	
reference to all contest laws...	829
salaries withheld pending..	451, 452
Contests of nominations	
court procedure on.....	660
how tried and decided.....	661
notice of contest.....	659
hearing on.....	660
service of.....	660
removal to supreme court.....	661
Conventions or primary meetings	
defined.....	612
Copy of list of voters to be furnished.....	567
Corporation—See Corporations	
Counting vote, total to be copied on blanks.....	609
County	
and township officers.....	4728-4730
clerk to print list registered electors.....	567
commissioners may call, when.....	532, 536
seats, elections on removal and location of—See Counties.....	4369-4389
Defined, in registration act.....	582
Delegates to constitutional conventions.....	632
Direct primary—See subtitle nominations by direct vote...	631-670
Directors of corporations—See Corporations	
Electioneering at polls forbidden.	693
Electors	
arrest, exemption from.....	541
casting ballot, how and where..	693
challenges, ground for.....	706
definition in primary law.....	581
eligibility to office.....	38
exemption from	
arrest.....	541
military duty.....	542
extra rights.....	39
instructions to be printed.....	607
judges may aid disabled.....	699
military duty, exemption from.	542
qualifications of.....	540
on question of city indebtedness.....	5278
taxpayers defined.....	544
Exemption	
from arrest when attending...	541
from military duty.....	542
Expenses.....	694
Fees of boards of election.....	591
For	
bond issues, only taxpayers to vote at.....	1253
organization of cities.....	4962
Form of ballot.....	681-686
General election, when held.....	531
proclamation by governor.....	533
Governor to issue commissions..	805
Holiday on election day.....	10
Identification of voter, how.....	578
Idiots and insane not to vote....	543

ELECTIONS (Continued)

In cities and towns, duty of clerk	
—See Cities and Towns.5003-	5014
Initiative and referendum—See Initiative and Referendum.99-	108
Insane persons cannot vote.....	543
Instructions to electors, posting of	607
Judges	
action on challenges.....	573
appointment.....	587
from same party forbidden..	590
clerks, duty to choose.....	593
compensation.....	591
custody of election returns....	784
fees of.....	591
notice of	
appointment.....	592
election.....	594
posting.....	595
number of.....	588, 589
oaths	
administration of.....	597
of.....	596
primary conventions, number at	625
registry agents for special seed-grain relief act.....	4688
to	
aid voters, when.....	699
keep certain papers and ballot-box.....	783
vacancies, how filled.....	592
Laws to be printed by secretary of state.....	807
furnishing to election officers..	807
List of registered voters, posting	567
Memoranda by voter to aid in marking ballot.....	678
Military duty, exemption from...	542
Municipal, duty of clerk.....	679
Naturalization certificates.....	575
Nominations by conventions or primary meetings	
candidates may decline, when..	620
certificates of nomination	
by electors.....	615
contents.....	613
to be preserved one year....	617
to contain only one name...	616
when and where filed.....	614, 618
challenges, oath upon.....	627
clerks.....	626
convention or primary	
defined.....	612
may nominate, when.....	612
errors, how corrected.....	622
fraudulent voting or counting.	628
judges at primary meetings...	625
penalties for violation of act...	630
qualifications of voter at primary meeting.....	623
secretary of state to certify nominees.....	619
unlawful interference.....	629
vacancies filled by certificates..	621
who entitled to vote.....	624
Nominations by direct vote	
abstract of returns.....	654
application of law to cities and towns.....	634

GENERAL INDEX.

ELECTIONS (Continued)

Nominations by direct vote (continued)	
arrangement of names on ballots	648
ballots	
arrangement of.....	649, 651
counting of.....	636
furnishing of.....	650
how voted.....	651
names, how arranged on....	648
official and sample, number of	652
bribery, penalty for.....	667
candidates to formulate state platform.....	666
canvass of	
returns.....	654
votes.....	637
duty of county clerk.....	655
cities and towns, subject to act	634
city and county clerks, duties imposed on.....	634
constitutional convention, election of delegates to.....	632
construction of law.....	631
contempt of court.....	656
contest of nominations.....	659
hearing on.....	660
how tried and decided.....	661
notice, issuance and service..	660
subpoenas, issuance of.....	661
counting of ballots.....	636
county and city committeemen	
election of.....	662
organization of.....	662
powers of.....	662
county central committeemen, election of.....	632
county clerk, duties after canvass.....	655
date of holding primaries.....	632
disposition of poll-books, ballots, etc.....	646
election	
notice.....	633
on passage of act.....	663
emergency clause.....	635
error in counting, procedure on	
contempt of court.....	656
exclusive nature of act.....	639
filing of petitions.....	640
filling vacancies, procedure.....	647
forgery, penalty for.....	669
form of tally-sheet.....	637
general	
laws applicable.....	670
penal laws applicable.....	668
intent of act.....	670
misconduct, penalty for.....	658
national committeemen	
election and term.....	663
how elected.....	663
immediate selection of.....	664
nominating petitions, form of..	641
notice of	
contest.....	659
election	
form of.....	633
how issued.....	633
nomination.....	648

ELECTIONS (Continued)

Nominations by direct vote (continued)	
number of signers required....	642
penal laws applicable.....	668
penalty for	
bribery.....	667
forgery and suppression of papers.....	669
official misconduct.....	658
violation of law.....	665
percentage of signers required	642
petitions for nomination	
filing of.....	640
form of.....	641
when and where filed.....	634-644
platform of party, how formulated.....	666
poll-books, sealing and return..	638
powers of municipal authorities	634
preservation of returns.....	646
qualifications of petitioners...	643
register of candidates.....	645
public record.....	646
returns	
canvass of.....	654
how made.....	638
sample ballots, preparation of..	652
scope of act.....	634, 639
sealing election returns.....	638
secretary of state may send for returns.....	657
expense, how paid.....	657
statement of candidates.....	641
tally-sheets	
certificates attached to.....	637
form of.....	637
sealing and return.....	638
term of committeemen.....	663
tie vote, procedure on.....	655
time for filing petition.....	644
title of law.....	631
United States senator's name	
placed on ballot.....	653
vacancies, how filled.....	647
who declared nominated.....	654
Nominees to designate party....	682
Notices to be mailed to judges..	594
posting of.....	595
Oath	
by whom administered.....	597
of judges and clerks.....	596
Officers of legislature.....	60-64
Omissions from poll-books, how corrected.....	579
Payment for	
copies of precinct registers....	572
poll-books.....	571
Penalties for violation of act....	808
Platforms, state, how formulated	666
Plurality elects.....	795
Poll-books	
clerk to forward to judges.....	599
county commissioners to furnish	598
defects not to vitiate.....	601
form of.....	600
furnishing of.....	598
payment to county clerk for...	571
preparation and contents.....	568

GENERAL INDEX.

ELECTIONS (Continued)

Polls	
time for opening and closing...	689
proclamation of.....	690, 691
Precinct registers	
compelling entry of names in..	577
copies to be furnished.....	572
marking, when elector has voted	704
name of voter must appear in..	578
omission of names from.....	579
voter to sign.....	576
Precincts	
changes in boundaries.....	546
establishment of.....	545
in Indian agency prohibited..	552
map of boundaries.....	548
of wards.....	549
place of election to be designated.....	550
procedure when place not designated.....	551
ward boundaries, certification of.....	547
where not to be established..	552
Presidential electors	
compensation.....	822
how audited and paid.....	823
governor to transmit certificate of election.....	815
list of persons voted for.....	820
meetings.....	816
nomination of.....	673
expenses.....	674
how paid.....	674
oath of.....	674
results, how transmitted.....	821
returns, how made.....	814
separate ballots for president and vice-president.....	819
vacancies, how filled.....	817
voting of electors.....	818
when chosen.....	813
who declared elected.....	673
Presidential preference primary	
ballots, how prepared and voted	672
campaign books	
how prepared and allotted...	675
space in, how allotted and paid for.....	676
delegates to national convention	
election of.....	673
expenses, how paid.....	674
oath of office.....	674
election	
of delegates to national convention.....	673
when held.....	671
nomination of candidates for presidential electors.....	673
nomination of delegates to party conventions.....	673
other election laws in force....	671
presidential electors, how nominated.....	673
voters to express preference for president and vice-president	672
when held.....	671
Primary nominating conventions for special elections.....	612- 630

ELECTIONS (Continued)

Primary nominating elections—	
See subtitle nominations by	
direct vote.....	631- 670
Printed instructions to voters...	607
Printing election laws.....	807
Proclamation	
contents.....	534
publication and posting.....	535
special elections.....	536
when issued.....	533
Publication	
advertisement in papers.....	538
of question submitted to vote..	537
Qualifications of voters.....	540
on elections for bond issues...	1253
Railroad commission.....	3779
Registration of voters	
action to compel entry of names	577
affidavit of	
lost naturalization papers...	554
voter.....	554
cancellation	
for failure to vote.....	562
of registry cards.....	570
restoring of names, when..	564
card index.....	554
challenges and action thereon..	573
change of residence, procedure on.....	561
charge for registration, when..	556
close of registration.....	566
registration during closed period.....	569
copies of precincts register to be furnished.....	572
cost of supplies, how paid.....	586
county clerk	
compensation for poll-books.	571
is register.....	553
to print list registered electors	
contents of list.....	567
expense of printing.....	567
posting list.....	567
qualified elector may obtain	567
county commissioners to supply help.....	586
deputy	
county clerks.....	580
registrars, designation and duties.....	557
election, defined.....	582
electors	
defined.....	581
infirm.....	556
residing at a distance.....	556
hours of registration.....	558
identification of voter.....	578
justices of peace as deputy registrars.....	557
military service, rights preserved.....	563- 565
name of voter to appear in register.....	578
naturalization certificates, presentation to registrar.....	575
notaries public as deputy registrars.....	557

GENERAL INDEX.

ELECTIONS (Continued)

Registration of voters (continued)	
omission of name from poll-book	579
poll-book, preparation of.....	568
printing and posting list of voters	567
procedure when applicant not qualified	559
registration during closed period	569
registry book	554
cards, numbering and classification	558
reregistration	562
residence	
procedure on change.....	561
rules governing.....	574
seed-grain relief act, special registration for.....	4688
signature of registry books....	576
transfers	
to another county.....	561
within county.....	560
violation of act	
a felony.....	583
removal from office on.....	583
what constitutes.....	585
who may register and how....	555
Representatives in congress	
election, when held.....	826
governor to issue certificate...	828
returns, how made.....	827
Residence, rules for determining	574
Returns	
abstract of, for joint members of house of representatives	798
transmission of.....	799
custody of.....	784
delivery to county clerk.....	785
disposition of prior, to canvass.	788
duty of clerk on receiving.....	800
forms for transmission.....	608
copying vote thereon.....	609
how	
made	782
transmitted	802
keeping pending contest.....	787
penalty for violation of act...	611
posting and mailing.....	610
state returns, how made.....	801
want of form not to vitiate...	601
School trustees—See Schools, Public	987-1004
Secretary of state to print election laws.....	807
Senators in congress	
election, for full term and to fill vacancies	824
writs of election to fill vacancies	825
Senators, state, when elected..	53, 54
Soldiers and sailors	
voting rights preserved.....	563
affidavit filed by.....	565
cards withdrawn from canceled file.....	564

ELECTIONS (Continued)

Special elections	
defined	532
proclamation by county commissioners	536
time of holding.....	532
Stamp for official ballots.....	603
State board of canvassers, compensation and duties.....	803, 804
Stub, size and contents.....	684
Superintendent of public instruction	931
Supplies	
and help to be provided.....	586
to be furnished.....	602, 4515
Tie vote, procedure	
judicial officers.....	812
representative in congress....	809
state officers.....	810, 811
Time of holding.....	531
United States senators, election of	824, 825
Upon	
propositions of counties to borrow money—See Counties	
questions submitted to electors	537
school matters—See Schools, Public	
Voters	
See also subtitle electors	
qualifications of.....	540
on elections for bond issues..	1253
Voting	
affidavit in case voter cannot sign name	704
assistance, when and how rendered	693
ballot to be cast without interference	693
commencement and continuation	688
delivery of ballots to elector...	695
identification of.....	578
judges to aid elector, when...	699
list of voters.....	705
manner of casting ballot.....	700
marking	
ballots	696
precinct registry book.....	704
method of voting.....	696
name to be announced.....	701
putting ballot in box.....	702
record of vote.....	703
time voter may occupy booth..	697
voter to sign precinct register..	576
Voting by absent electors	
absent electors may vote, when affidavit	715
of absentee, fees.....	718
on envelope.....	720
application for ballot.....	716
form of.....	717
ballot	
delivery to election judges...	723
record of.....	724
to be sent by special delivery	728
clerk to furnish blanks.....	719
disposition of ballot by clerk..	722
envelopes, disposal of.....	727

GENERAL INDEX.

ELECTIONS (Continued)

Voting by absent electors (continued)	
form of affidavit and return...	720
judges to note absent voters on poll-list	725
mailing ballot.....	720
marking and swearing to ballot	721
numbering ballots.....	725
opening envelopes after deposit penalty for	731
false swearing and official misconduct	732
violation of act by persons outside of state.....	735
change of venue.....	735
procedure when elector present	730
must cast vote if present on election day.....	734
rejection of ballots.....	725-727
voting	
before election day.....	726
by elector in person.....	729
machines, canvass of votes..	733
who may vote.....	715
Voting by absent electors in military or naval service	
adjutant-general, duties concerning act.....	738
ballots	
canvass of.....	747, 748
deposit with state treasurer, when	747
transmission to electors.....	745
voted ballots, transmission to clerk	746
canvass of votes	
by county commissioners.....	749
by state canvassing board..	748
determination of number of votes cast.....	750
returns received after certain dates not to be canvassed	751
construction of act.....	756
county clerk, duties concerning disposal of envelopes received before certain date.....	741, 748
disposition of canvassed ballots.	754
duty of county clerk.....	737, 741
envelopes and affidavit.....	742
general register to be prepared by secretary of state.....	738
informalities not to invalidate act	753
information, duty of officers to furnish	738
list of service men to be mailed.	737
marking and sealing ballot....	743
official ballots, preparation and printing	740
penal laws applicable.....	753
persons before whom ballots may be marked.....	752
printing and distribution of act.	755
secretary of state, duties of.	738, 741
time for casting ballot.....	744
transmission by telegraph of candidates' names.....	739
who may vote under act.....	736

ELECTIONS (Continued)

Voting machines	
assistance of elector, when....	762
ballot	
and instructions to voter....	763
labels	763
city and county clerk to set up machine for use.....	764
counties and cities may use....	759
counting votes.....	766
diagram of machines to be published	763
duty of county clerk to demonstrate	763
election returns, preparation of certificate of closing polls...	767
examination by public.....	767
irregular ballots, marking of.	767
machine to be locked.....	767
tally-sheets, return of.....	767
election supplies to be furnished	763
exhibition of.....	763
experimental use of authorized.	773
irregular ballots.....	765
judges to be appointed for....	761
laws applicable.....	768
method of conducting.....	761
no books for poll-lists.....	763
nominations on two tickets, how regulated	763
nominees, statements to be filed by	763
party ballots, arrangement of..	764
payment for machines.....	760
penalty for	
deceiving electors.....	762
fraudulent returns or certificates	772
neglect of duty.....	769
tampering with machines....	770
violation of duty to judge...	771
plates over keys not in use....	764
presidential electors, names on ballot	763
procedure when machine unworkable	773
purchase and use of machines..	759
repair of.....	773
returns, how made.....	767
samples of printed matter, preparation of.....	763
specifications of machines required	758
state board of voting machine commissioners	
creation of.....	757
duties	757
unofficial ballots, use of.....	773
voting, how conducted.....	761
Writs of election to fill vacancies in senate.....	825
ELECTORS	
See Elections	
Eligibility to office.....	38
People comprise.....	31
Qualifications of.....	540
Rights, extent of.....	39

GENERAL INDEX.

ELECTRIC BELLS

Maintenance at railroad crossing
.....3842- 3846

ELECTRIC LIGHT AND POWER

Assessment
by state board of equalization
.....2138- 2146
of lines for taxation..... 2021
Cities may regulate by ordinance 5040
Right-of-way for pole lines
granted 6645
Right-of-way construction, how
regulated 6645

ELECTRIC LINES

How assessed..... 2021
Interference with, punishment... 11473
Malicious injury to.....11466
Removal of packing from machin-
ery 11472

ELECTRIC RAILWAYS

Liability to employees..... 7760

ELECTRICAL CONSTRUCTION

Act, when effective..... 2710
Aerial cable supports..... 2693
Arc lamps..... 2685
Bridge arms..... 2680
Casing of ground wires..... 2702
Climbing space for cross-arms on
poles jointly used, mainte-
nance of.....2677, 2689, 2691, 2697
Cross-arms 2679
construction of..... 2690
Direct current feeders, protection
of 2705
Double arms 2681
Effective date of act..... 2710
Electricians, number to be em-
ployed 2705
Fuse requirements..... 2706
Generating and substation equip-
ment 2703
Ground wires, protection of..... 2702
Grounding of apparatus..... 2707
Guy
attachments 2682
clearance 2684
insulation 2683
anchor guys..... 2692
for joint construction..... 2696
strain insulation, when used.. 2692
wires, protection of..... 2700
Head room 2707
Insulation 2683
Log-book at generating and sub-
stations 2703
Manhole openings..... 2708
Overhead construction, light, heat
and power lines..... 2677
Penalty for violation of act.... 2709
Pin-spacing 2679
standard 2690
Pole gain..... 2678
Poles
climbing spaces, cross-arms.... 2695
general construction..... 2698
joint use of..... 2694

ELECTRICAL CONSTRUCTION

(Continued)

Primary taps..... 2678
Protective devices..... 2704
Repealing clause..... 2711
Separation of wires..... 2694
Side-arms 2699
Space between arms..... 2678
Span-wires 2687
Switches, air gap and oil break... 2705
To what
construction applicable..... 2688
provisions not applicable..... 2689
Trolley-wires 2687
Wire
crossings, construction of..... 2701
insulation 2686

ELECTRICITY

See Electrical Construction..2677- 2711
Larceny of.....11385, 11386
false devices for measuring.... 11387

ELEVATORS

See also Terminal Grain Eleva-
tor1583- 1602
Control of, by department of ag-
riculture, labor and industry
—See Agriculture, Labor and
Industry, Department of 3573- 3592
Defined as public mills..... 3917
Location on right-of-way of rail-
roads—See Railroads....6638- 6644
Passenger elevators, employment
of children..... 3095
Regulation of—See Trade Com-
mission3914- 3946

ELISORS

Designation of, to serve process.. 4793

ELK

Game animal..... 3681
Open season for..... 3696
Preserves for..... 3696

EMBALMERS, STATE BOARD OF

Appointed by state board of
health under authority of
section 2456..... 2456

EMBEZZLEMENT

See also Larceny
See also Stolen Property...12240-12246
See Criminal Offenses
Acts constituting..... 11318
Arrest of public officers for..9194, 9652
Pleading 11860
Punishment of..... 11318
Removal of executors and admin-
istrators for..... 10124
Search-warrant 12395

EMBRACERY

Defined 10858

EMINENT DOMAIN

Act not to abrogate certain stat-
utes 9956
Actions, how commenced..... 9939
Appeal by plaintiff..... 9952

GENERAL INDEX.

EMINENT DOMAIN (Continued)

Appeal from assessments of commissioners	
procedure on.....	9947
when and how taken.....	9947
Appeals	
to supreme court.....	9937
stay on.....	9937, 9952
trial by jury.....	9947-9952
Assessment of value of land.....	9944
Bond on appeal.....	9952
Bond to build fences and cattle-guards, when executed.....	9949
Carey land board may exercise..	1985
Commissioners	
appointment and oath.....	9944
meetings	9944
to ascertain what.....	9944
Compensation for damages, date and measure of.....	9945
Complaint, contents of.....	9940
Copy of final order filed, where...	9951
Costs, allowance and apportionment	9953
Damages	
payment or deposit of bond....	9949
to be reassessed on appeal....	9947
to whom paid.....	9950
Defective title, procedure to cure	9948
Defendant to have execution for damages	9950
Defined	9933
Estates in land which may be acquired by.....	9935
Exercise by state.....	30
Facts necessary to be found before condemnation.....	9937
Fences and cattle-guards, plaintiff may build	9949
Final order of condemnation, contents and filing.....	9951
Franchises subject to.....	9936
Interest on damages.....	9945
Jurisdiction of district court....	9939
Jury, power in assessing damages	9952
New proceedings to cure title, when	9948
Payment of damages	
how and when.....	9949
to whom made.....	9950
Power of court to appoint commissioners	9943
Private property, classes enumerated	9936
Private roads, how opened.....	9955
exception	9956
temporary logging roads.....	9957
Procedure to put plaintiff in possession	9952
Proceedings if payment fails....	9950
Public uses authorizing exercise	9934
Report of commissioners.....	9936
Right to exercise by	
corporations	6002
foreign corporations.....	6658
railroad companies.....	6507
telegraph and telephone companies	6646

EMINENT DOMAIN (Continued)

Right to exercise by (continued)	
United States for irrigation ditches	7134
Rules of practice applicable.....	9954
State may survey and locate land, when	9938
Summons, contents, issuance and service	9941
Survey and location, right to make	9938
Temporary logging roads	
damages to be paid, when....	9958
party for which taken.....	9957
to include what.....	9957
Title vests in plaintiff, when....	9951
Who may defend actions.....	9942
Who may survey and locate land	9938

EMPLOYER AND EMPLOYEE

See Child Labor—See also Labor	
—Hours of Labor	
See also Master and Servant 7794—	7800
See also Workmen's Compensation Act, Political Code.....	2816-3033
Compensation of employee	
dismissed for cause.....	7792
leaving for cause.....	7793
Continuance of service after term, when	7788
Contract of insurance	
no bar.....	7764
not to relieve employer.....	7762
Contracts exempting employer from negligence, unlawful, when	7555
Duty to comply with part-time school act.....	1150
Employees	
compensation on dismissal or leaving for cause.....	7792, 7793
confidential employment, how regulated	7785
contract for personal service, limitation	7773
degree of skill required.....	7776
duty of	
employee for own benefit....	7772
employee for reward.....	7771
gratuitous employee.....	7768
duty on service by special request	7769
duty to account.....	7779
gratuitous under power of attorney, duty.....	7770
must	
conform to usage.....	7775
continue after death of employer, when.....	7788
obey employer.....	7774
use what skill he has.....	7777
not bound to deliver without demand	7780
preference to employer's business	7781
responsibility for	
negligence	7783
substitute	7782

GENERAL INDEX.

EMPLOYER AND EMPLOYEE

(Continued)	
Employees (continued)	
skill required of.....	7776, 7777
surviving, duty of.....	7784
what belongs to employer....	7778
Employer	
must indemnify employee,	
when.....	7757, 7759
not bound to indemnify, when.	7758
Employment defined.....	7756
Foreman soliciting gifts.....	11404
immunity of witness.....	11405
Insurance contract not to relieve	
employer.....	7762, 7764
Liability of employer to pay road-	
tax, when.....	1619, 1620
Mines and smelters, liability to	
employees for damages 7761-	7763
Payment of wages to employee on	
discharge, penalty.....	3086
Protection of discharged em-	
ployees.....	3092, 11219
Railroad	
corporation, liability to em-	
ployees for damages.....	7760
liable for negligence of fellow-	
servant.....	7766
survival of action.....	7767
Refusal	
to furnish names of employees	
for taxation.....	11327
to pay wages without discount	11403
Requiring release of liability, pun-	
ishment.....	11402
Servant—See Master and Servant	
.....	7794- 7800
State employees, appointment and	
salary, how fixed.....	273- 275
Survival of action.....	7765
Termination	
by employee for fault.....	7791
by employer for fault.....	7790
of employment at will, when...	7789
of employment, how.....	7786, 7787
Unlawful acts in violation of elec-	
tion laws.....	10770
Vice-principals, liability for neg-	
ligence of.....	7760, 7761
Wages, priority in case of death..	8353

EMPLOYMENT AGENCIES

Advertising, certain statements	
forbidden.....	4171
Cards, contents of.....	4167
Contracts with laborers, regula-	
tion of.....	4169
Copies of act to be posted.....	4168
Definition of term.....	4157
Establishment in cities, when...	3636
Fees chargeable to applicants....	4164
repayment of.....	4164
Female applicants, regulation of	
placing.....	4170
Gifts in lieu of fees forbidden...	4166
License	
application for.....	4160

EMPLOYMENT AGENCIES (Con-

tinued)	
License (continued)	
bond	
action on.....	4162
of applicant.....	4161
contents.....	4159
fees for.....	4158
Offices in cities.....	3636
Penalty for violation of act....	4172
Receipts to applicant, contents of.	4165
Register of, contents.....	4163

EMPLOYMENT OFFICES

See Employment Agencies	
Establishment and maintenance	
by city councils.....	3636

ENCLOSURE

Entry upon, without permission,	
to hunt, etc.	11481, 11482

ENCROACHMENTS

On public highways—See High-	
ways.....	1726- 1741

ENCUMBRANCES

Covenants against in agreements	
to sell real estate.....	7589
Embrace what.....	6875

ENEMY, PUBLIC

Cannot be insured.....	8067
Carrier not liable for loss, when.	7867
Innkeeper not liable for loss, when	7673
Performance, when excused by...	7452

ENGINEER, STATE

See Carey Land Act Board..	1954- 1959
Duty	
to examine dams and reservoirs,	
when.....	2659
with reference to Montana irri-	
gation commission—See Mon-	
tana Irrigation Commission..	3947- 3952

ENGINEERS

See also Hoisting Engines.....	
.....	2730-2736, 3068, 3069
At mines, running cages at exces-	
sive speed.....	11272
Examination	
disinterested engineer to sit	
with board, when.....	2725
for license.....	2723
Examining board.....	2725
Exemptions.....	9428
Explosion of boiler, neglect.....	11229
False certificates to.....	11198
Fees for license.....	2723
Fireman's license.....	2720
Licenses	
classification of.....	2720
fees for renewal of.....	2727
renewal of.....	2727
revocation of.....	2721
traction license.....	2720
Locomotive	
peace officers for certain pur-	
poses.....	11570
to procure license.....	2726

GENERAL INDEX.

ENGINEERS (Continued)

Mismanagement of boilers.....	11195
Penalty for operating without license	2728
Railroad, intoxicated while on duty	11253
violation of duty, punishment.	11255
Re-examination for license	2724
of applicants, when.....	2725
Revocation of license.....	2721
Unlicensed engineers, when employed	2728

ENGINES AND MACHINERY

See Hoisting Engines.....	2730-2736, 3068, 3069
Capacity how computed.....	4209
marking on engine.....	4209
Inspection by state boiler inspector	4210
Penalty for violation of act.....	4211

ENGLISH

Court proceedings to be in.....	8880
---------------------------------	------

ENGROSSING

Of bills by clerks.....	72
-------------------------	----

ENSIGN

Defined	11562
---------------	-------

ENTER

Defined	11349
---------------	-------

ENTITLING AFFIDAVITS

Defective title not to affect.....	11873
What provisions applicable to special proceedings.....	12430

ENTOMOLOGIST, STATE

Creation of office.....	913
Duties	914
Expenses, how paid.....	916
Extermination insect pests in counties—See Insect Pests..	4501-
Report of.....	915

ENTOMOLOGY, STATE BOARD OF

Creation and membership.....	2543
Compensation and expenses.....	2545
Duties of.....	2546
Eradication of diseases by.....	2547
Extermination of tick-bearing rodents — See Tick-bearing Rodents	2552-
Penalty for violation of rules....	2551
Poisons, duties concerning inspection—See Paris Green...	2605-
Quarantine by.....	2548
Rules and regulations.....	2548
approval by board of health..	2549
publication of.....	2550
Secretary of.....	2544

ENTRY

Entries as evidence—See Evidence	
----------------------------------	--

ENTRY (Continued)

In eminent domain.....	9935
Of causes by clerk on calendar of court, order of.....	9330
On real estate, when deemed valid	9017

EPIDEMIOLOGIST, STATE

Appointment	2540
Duties	2541
Qualifications	2542
Salary and expenses.....	2542

EPILEPTICS

Commitment to training school for feeble-minded.....	1477, 1478
--	------------

EQUALIZATION, STATE BOARD OF

See Taxation	
Classification of lands for taxation	2024-
Composition of.....	113
County boards of equalization—See Taxation	
Duties concerning cement producers' license tax..	2356-
coal dealers' license tax...	2327-
coal mines' license tax...	2316-
gasoline dealers' and distributors' license tax.....	2381-
metalliferous mines' license tax	2344-
oil producers' license tax ..	2397-
taxation net proceeds of mines	2089-
Inheritance tax, powers and duties concerning—See Inheritance Tax.....	10377-
	10400

EQUITY ACTIONS

Extent of review by supreme court	8805
New trial, when granted in.....	9396

ERRORS

In indictment, when disregarded	11853
In pleadings to be disregarded, when	9191
Not prejudicial, to be disregarded	11874
On delinquent list, how corrected	2059

ESCAPES

See also Rescues and Escapes....	
.....	10864-
Aiding in time of insurrection....	11292
Convicts, liability for.....	12448
From arrest, right of person to retake	11771
right to break doors and windows	11772
From industrial school, aiding...	12510,
.....	12511
Jurisdiction of actions for.....	11713
Liability of sheriff for.....	4783-
Limitations of actions.....	9031
Wearing of masks.....	11571
When sheriffs liable for.....	9216

GENERAL INDEX.

ESCHEATED ESTATE FUND

Authority to invest in state general fund warrants..... 270

ESCHEATED ESTATES

Attorney-general to file information..... 9959
 procedure thereon..... 9959
 Claims against, how asserted.... 9962
 Estates settled by public administrator, how disposed..... 10001
 Issues of fact, how tried..... 9961
 Judgment, how rendered..... 9961
 Manner of commencing proceedings relative to..... 9959
 Order of sale, procedure..... 9961
 Proceedings by persons claiming Property, how sold..... 9961
 Receiver for rents and profits appointed, when..... 9960
 Who may appear and defend... 9961

ESCHEATS

Duty of attorney-general..... 206
 Of property not claimed by aliens—See Succession..... 7091
 When property escheats..... 28

ESCROW

Delivery of grants in..... 6846

ESTATES

See also Easements..... 6749- 6759
 See also Succession..... 7071- 7092
 See also Wills..... 6974- 7070
 Aliens may inherit..... 7088
 Equitable, subject to dower..... 5813
 Freehold, defined..... 6727
 In real property—See Property..... 6723- 6748
 how created..... 6859
 Tail, abolished..... 6725

ESTATES FOR LIFE

Termination of..... 10375

ESTATES IN EXPECTANCY

Settlement for inheritance tax on 10396

ESTATES OF DECEDENTS

For law relating to the administration of estates, including proof and contest of wills, see Probate Proceedings
 Advancements—See Advancements..... 7082- 7086
 Assessment of undistributed property..... 2014
 Demand of money taken by corner..... 4766
 Executors not named, appointed, when..... 7065
 Final distribution, payment of taxes..... 2173
 How chargeable in case of intestacy..... 7052
 Order of inheritance—See Succession..... 7071- 7092
 Order of resort to estate for debts 7053
 Taxes on—See Inheritance Tax..... 10377-10400

ESTOPPEL

By judgment..... 10558, 10559
 Conclusive presumptions..... 10605
 Sureties, when..... 10562
 Surety companies to deny power. 6227
 To question corporate existence, when..... 5998

ESTRAYS

See Livestock..... 3330- 3345
 Defined..... 3339
 Penalty for unlawful taking..... 3340

EVIDENCE

Abortion, evidence on trial for.. 11984
 Accomplices, corroboration..... 11988
 Accounts, contents, how proved.. 10516
 Acts, executive and legislative, how proved..... 10568
 Admissibility, under plea of not guilty..... 11911
 Adulterations, possession of, prima facie..... 11247
 Affidavits
 admissible in probate proceedings, when..... 10082
 before whom taken in another state..... 10640
 foreign country..... 10641
 this state..... 10639
 clerk to certify signature of judge, when..... 10642
 defined..... 10632
 of publication..... 10637
 filing, evidence of publication of fictitious partnership names..... 8023
 of special partnership..... 8032
 when used..... 10636
 where filed..... 10638
 Affirmative allegations to be proven..... 10530
 Agreements
 in writing, other proof, when admissible..... 10517
 not in writing, invalid, when.. 10613
 Alteration of writing, how and by whom explained..... 10617
 Assessment books, etc., evidence of what..... 2216
 Banks, incorporation of, how proved..... 11983
 Barratry..... 10937
 Bigamy..... 11982
 Books
 containing laws admissible as... 10550
 entries in, when prima facie.. 10570
 how far evidence..... 10584
 Bribery
 of witnesses..... 10896
 receiving or offering to receive..... 10897
 offender as witness..... 10863
 Burden of proof
 on whom..... 10616
 to show want of consideration. 7513
 Certificate
 as to copy of writings, contents of..... 10573, 10574

GENERAL INDEX.

EVIDENCE (Continued)

Certificate (continued)	
of marriage as.....	5720
of purchase as evidence of title	10575
Certified copies	
as	6932
of articles of incorporation....	5913
of register of fictitious partnership names.....	8023
public records as.....	10598
Character, when admissible.....	10670
Common reputation.....	10513
evidence of, may be given.....	10531
what admissible as evidence of	10513
Conclusive	
evidence defined.....	10502
or unanswerable, when.....	10615
Confession of adultery does not justify divorce.....	10685
Construction of	
language or writing, how interpreted	10518
statutes	
intent of legislature to prevail	10520
particular provisions to control general.....	10520
statutes and instruments	
duty of judge.....	10519
in favor of natural right....	10527
Construction of instruments	
circumstances to be considered.	10521
duty of judge.....	10519
of two, which preferred.....	10525
persons skilled may testify to decipher characters.....	10524
terms of writing, how construed	10522
writings, how construed.....	10526
written words control in printed form	10523
Contents of writing, how proved.	10516
Conveyances, certified copies as..	10598
Conviction of felony may be shown	10668, 10674
Copies of records state land board as	1812
Coroner's inquest, when delivered to magistrate.....	12387
where filed.....	12386, 12387
Corporate character national banks	5915
Corporate existence	
how proved.....	11983-11985
or capacity.....	5914
Corroborative evidence defined...	10504
Court may forbid further, when..	10661
Credibility of witnesses.....	10531
Cross-examination	
as to what.....	10665
defined	10662
Cumulative, defined.....	10503
Decedent's declarations	
against interest.....	10514
when admissible as evidence of common reputation.....	10513
Deceiving witnesses.....	10892

EVIDENCE (Continued)

Declarations	
admissible as res gestae, when	10511, 10531
against interest.....	10514
another party not to affect rights, when.....	10509
decedent	
as evidence against successor in interest.....	10514
on questions of pedigree....	10513
of another, effect on rights of party	10509
predecessor in title, when evidence	10510
when part given, all admissible	10515
Defendant	
failing to testify.....	12177
weight to be given evidence of	12177
Defined	10488
Definitions	
affidavit	10632
conclusive	10502
conclusive presumptions.....	10605
disputable presumptions..	10604, 10606
corroborative	10504
cumulative	10503
deposition	10633
direct	10496
evidence	10488
indirect	10497
indispensable	10501
inference	10601
judicial	
notice	10532
record	10554
law of evidence.....	10490
leading question.....	10663
oral examination.....	10634
partial	10499
presumption	10602
prima facie.....	10498
primary	10494
proof	10489
public and private statutes...	10548
satisfactory	10500
seal	10578
secondary	10495
subpoena	10618
subscribing witness.....	10583
unwritten law.....	10549
witness	10533
writings	10539-10541
written laws.....	10546
Degree of proof required.....	10491
Degree, warranting indictment...	11825
Degrees of evidence.....	10493
Demonstration of absolute certainty not required.....	10491
Depositions	
by whom used.....	10650
commission to authorize what..	10648
defined	10633
excluded, when.....	10653
how taken.....	10635
in state, notice of.....	10651
interrogatories, submitted or waived	10647

GENERAL INDEX.

EVIDENCE (Continued)

Depositions (continued)	
manner of taking, and trans-	
mission	10652
of person under arrest	10628-10630
once taken may be read at any	
time	10654
read in case of death	10652
read on trial	9333
procedure for taking before	
judge in state on notice	10651
manner of taking and trans-	
mission	10652
taken in state	12197
taken in this state for use in	
other states	10655
how, if no commission	10657
how to procure on commis-	
sion	10656
taking and transmission of	
testimony	10658
taken out of state	12212
trial, when postponed for non-	
return	10649
when	
excluded	10653
used	10643
witness	
in state, when taken	10645
out of state	
how taken on commission	10646
when taken	10644
Destroying or concealing	10894
Direct	
evidence, defined	10496
examination defined	10662
Directed verdict, court may ad-	
visc, when	11995
Disclosure of, by grand juror	10947
Documents, how proved	10568
Effect of	
judgments or final order of	
court	10558
other judicial orders	10559
disputable presumptions,	
when created	10559
Entire transaction admissible	
when part proved	10515
Entries	
by officers or boards, prima	
facie	10576
in official books prima facie	10570
of decedents, when admissible	
as	10594
Evidence of good character not	
admissible in civil actions	10670
when admissible	10670
Examination	
See Examination	10659-10671
before magistrate	
authentication	11783
how kept	11784
Executive acts, how proved	10568
Expert	
on trial for forgery	11983
testimony, when	10524

EVIDENCE (Continued)

Facts, how proved	10505
Facts which may be proved on	
trial	10531
acts constituting res gestae	10531
acts of	
conspirators in certain cases	10531
deceased persons in certain	
cases	10531
prisoners or agents in certain	
cases	10531
acts or declarations of party as	
evidence against	10531
common reputation respecting	
certain facts	10531
contents of a writing, when oral	
evidence admissible	10531
entries in family bibles or books	
as evidence of pedigree	10531
facts	
from which facts in issue are	
presumed	10531
showing credibility of wit-	
ness	10531
monuments and inscriptions as	
evidence of common reputa-	
tion	10531
opinion of	
certain skilled witnesses	10531
subscribing witnesses to writ-	
ings, relative to sanity of	
signer	10531
precise fact in dispute	10531
testimony of witnesses in cer-	
tain former actions	10531
usage	10531
False pretenses	11987
Felony, conviction of, may be	
shown	10668
Filing of trademarks	11206
Foreign	
judgment, effect as	10565
laws, how evidenced	10551, 10552
records, copy of, as	10557
Forgery of bank bills, experts	11983
Gambling prosecutions, not to be	
used, when	11178
Given in justice courts in what	
cases	9625
Grand jury	
need not hear that of defendant	11824
receivable by	11823
Handwriting in instrument	6923
Hearsay, forbidden	10506
Husband and wife, when witness	
for or against each other	10536
Illegitimacy, how proved	5832
Impachment of witness, when	
and how	10666-10669
In libel, truth	10992
Incorporation of banks, how	
proved	11983
Indirect	
defined	10497
kinds of	10600
Indispensable	10607
defined	10501

GENERAL INDEX.

EVIDENCE (Continued)

Inference	
defined	10601
on what founded	10603
Inspection of writings shown to witness	10671
Instructions as to weight of	10672
Instruments—See subtitle writings	
Intent of legislature to govern statutes	10520
Interpreter, when used and how summoned	10538
Inventory of wife's property	5794
Judge or jury may be witness, when	10537
Judgments	
conclusiveness of	10558
justices in other states, how proved	10571, 10572
of foreign countries, effect of	10565
other judicial orders, effect of	10559
what deemed adjudged in former	10561
Judicial	
notice, of what facts taken	10532
records	
defined	10554
how authenticated	10555, 10556
how impeached	10566
of sister states, effect as	10563
Jury is judge of effect of evidence court to instruct on what points	10672
Justices' judgments in other states certificates to be attached, contents of	10572
how proved	10571
Kinds of	10492
Language of writing, how construed	10518
Larceny of money, etc., what sufficient	12008
Law	
of defined	10490
reports as	10552
Leading questions defined	10663
Lobbying, witness compelled to testify	10846
Lotteries	11986
Malicious intent, when presumed	10605
Maps, how far evidence	10584
Marriage, how proved	5697
Material	
allegations, only to be proved	10528
objects, admissibility as	10599
May be taken during postponement, when	9332
Monuments	10531
Moral certainty only required in	10491
Must	
be relevant to question in dispute	10529
collateral inquiry, when permitted	10529
correspond with substance of allegations	10529
Negative allegations, when necessary to prove	10530

EVIDENCE (Continued)

New trial, grounds for—See New Trial	
Newly discovered, new trial	12048
Notice in writing, how construed	10526
Obscene advertisements	11148
Of	
appropriation of water	7104
breach of undertaking to keep the peace	11649
codefendants, use of	12178
loss of insurer	8143
publication	
how made	10637
where filed	10638
testator's intention to supply omissions in will	7039
Offer of compromise	
effect of	10684
in justice courts	9687
Offering false	10891
Official documents, how proved	10568
On suit to collect taxes	2227
On trial for	
abortion and seduction	11984
bigamy	11982
conspiracy	11979
forging bank bills or notes	11983
larceny, when sufficient	12008
selling lottery tickets	11986
treason	11978
One witness sufficient to prove fact	10505
Opinions admissible, when	10531
Oral	
examination defined	10634
testimony not to vary writings	10517
Order of	
introduction at trial	9349, 11969
proof, how regulated	10659
Original records admissible, when	10598
Parol	
admissible to explain writing, when	10517
laws of other states to prove, when	10552
particular significance of words	10522
usage to explain contract, when	10531
Part of transaction proved, whole admissible	10515
Partial evidence defined	10499
Parties, when deemed the same	10560
Party producing witness may impeach, when	10666
Pedigree, declarations of decedent's, admissible	10513
Perjury, what admissible	10720
Perpetuation of testimony	
application for order, contents of	10687
appointee authorized to take	10688
depositions	
effective as oral testimony	10692
prima facie evidence	10690
evidence	
how perpetuated	10686
may be produced, when	10691

GENERAL INDEX.

EVIDENCE (Continued)

Perpetuation of testimony (continued)	
manner of taking.....	10689
notice of settlement of interrogatories	10689
sealing and filing depositions..	10689
Personal knowledge.....	10506
Preparation of false.....	10893
Presumptions	
defined	10602
how controverted.....	10604
jury to find what.....	10604
which are	
conclusive	10605
disputable	10606
Preventing witnesses from testifying	10895
Prima facie evidence	
between parties, when.....	10512
defined	10494, 10498
larceny of gas, electricity or water	11385, 11386
recitals in tax-deeds.....	2213
Primary, defined.....	10494
Private writings—See subtitle writings	
Privileged communications by attorneys, clergymen, husband and wife, physicians and surgeons, priests, and public officers	10536
Proceedings against one party not to affect another.....	10509
Production, by whom.....	10616, 10617
Proof	
definition of.....	10489
what facts may be proved on trial	10531
Provisions of code applicable to trials before referees and other officers.....	10700
Public records of private writings, how proved.....	10569
Rebuttal, when allowed.....	9349
Receiving stolen jewelry, etc., presumptive	11388
Recitals in statutes, how far evidence	10553
Record of	
court of admiralty, effect as... former conviction as, when...	10564 11120
Re-examination, when permitted.	10667
Refreshing memory of witness, when	10664
Relevancy	10529
Representation as to credit of third persons, writing necessary	10614
Res gestae	
declarations admissible as, when	10511
what constitutes.....	10511
Rules	
for construing description of land	10683

EVIDENCE (Continued)

Rules (continued)	
of	
applicable	11977
on trial of challenge to jury.	11966
Satisfactory evidence defined....	10500
Search-warrant, procedure.....	12411
Secondary evidence, defined.....	10495
Security to keep the peace, reduced to writing.....	11640
Seduction, evidence on trial for..	11984
Skilled persons may decipher characters	10524
Statute of frauds.....	10613, 10614
Statutes and instruments	
how construed.....	10519, 10520
recitals in, how far evidence...	10553
Stenographer's report as evidence	8935
Subpoenas	
definition	10618
disobedience	
forfeiture to aggrieved party	10625
how punished.....	10624
how issued.....	10619
how served.....	10621
service, when witness concealed	10621
Terms of writing, how construed.	10522
Testimony	10631
how taken	10631
subject to cross-examination... to be in presence of persons affected	10665 10507
Third persons, evidence relative to obligations of.....	10512
Transfer of real property must be in writing, when.....	10611
exceptions	10612
Treason	11978
how proved.....	10608
Turning state's.....	11974
Unwritten law	
defined	10549
of other states, oral testimony.	10552
Warrant for witnesses	
contents of.....	10627
when issued.....	10626
What	
admissible in questions relating to third persons.....	10512
deemed adjudged in former judgments	10561
jurisdiction sufficient to support record	10567
When parties are deemed to be the same.....	10560
When receivable before grand jury	11823
Where sureties are bound principal is likewise.....	10562
Whole transaction admissible, when	10515
Wills	
revoked, how.....	10610
secondary evidence of contents	10609
to be in writing.....	10609
Withholding of.....	10931
Witnesses	
affidavit to be made on arrest..	10678

GENERAL INDEX.

EVIDENCE (Continued)

Witnesses (continued)	
arrest void if made, when.....	10677
arrest, when.....	10626
capacity of.....	10534
children cannot be, when.....	10535
concealed witness.....	10621
confidential relations prohibit testimony, when.....	10536
court to discharge from arrest, when.....	10679
credibility.....	10508, 10534
damages for arrest.....	10677
defined.....	10533
disobedience to subpoena.....	10624-10627
evidence of good character, when.....	10670
exclusion, when.....	10660
exempt from arrest when attending in response to subpoena.....	10676
how impeached.....	10668, 10669
in state, when taken.....	10645
may refresh memory, when....	10664
memoranda to be produced..	10664
must	
answer	
as to fact of conviction of felony.....	10674
legal and pertinent questions.....	10674
questions.....	10673
attend when served with subpoena.....	10673
remain until testimony closed	10673
need not give answer, when....	10674
not compelled to attend, when.	10622
oath of.....	10694-10697
officer not liable for arrest, when.....	10678
one sufficient to prove fact....	10505
out of state, when taken.....	10644
person present compelled to testify.....	10623
persons capable of perception and communication may be..	10534
presumed to speak the truth...	10508
presumption, how rebutted..	10508
jury exclusive judges of credibility.....	10508
privilege, on trial for fighting duel.....	10987
production when in prison....	10628
examination by deposition, when.....	10630
on whose motion.....	10629
recalling and re-examining, when permitted.....	10667
receiving bribes.....	10897
right of protection on examination.....	10675
subscribing defined.....	10583
testimony confined to personal knowledge.....	10506
to be heard on oath or affirmation.....	10507
when compelled to attend court	10622

EVIDENCE (Continued)

Witnesses (continued)	
who cannot be.....	10535
who may be.....	10536, 10537
Writings	
alteration, how and by whom explained.....	10617
authenticated copies of written law admissible as evidence..	10551
books containing laws, when admissible as evidence.....	10550
books, maps, etc., as evidence..	10584
called for and inspected may be withheld.....	10587
certificate of purchase or location of land prima facie evidence of ownership.....	10575
how overcome.....	10575
certified copies of records as evidence.....	10598
comparison when over thirty years old.....	10593
construction	
circumstances under which made.....	10521
in favor of natural right....	10527
relates to place where executed.....	10518
written words control printed contents, how proved.....	10516
copies	
when competent to prove contents.....	10585
when deemed genuine in justice court.....	9650
entries in	
books excluded, when.....	9771
official books as prima facie evidence.....	10570
ordinary course of business..	10594
performance of duty specially enjoined.....	10594
entries made by officers or boards prima facie evidence..	10576
evidence of execution not necessary, when.....	10590
foreign records, proof on introduction of copy.....	10557
handwriting	
evidence by comparison.....	10592, 10593
experts on.....	10524, 10531
how proved.....	10591
how proved.....	10588
by other evidence, when....	10589
in custody of adverse party, notice to produce.....	10586
inspection and copies, right to make.....	10542
inspection by opposite party when shown to witness....	10671
must be read to jury, when..	10671
judicial record	
defined.....	10554
of foreign countries, how proved.....	10556
of state or United States, how proved.....	10555
kinds of writings.....	10539

GENERAL INDEX.

EVIDENCE (Continued)

Writings (continued)	
language, how interpreted.....	10518
laws, either written or unwritten	10545
loss, proof of, must be made...	10585
lost writings, contents, how proved	10516
of decedents, when admissible in certain cases.....	10594
official certificates	
by whom made.....	10573
contents of.....	10573
provisions apply to public writings of United States or territories.....	10574
oral testimony of witnesses, when admissible	10552
organic law defined.....	10547
original must be proved or accounted for.....	10585
other evidence of laws of other states	10552
other evidence to vary terms, when admissible.....	10517
other official documents, how proved	10568
principal and surety bound by record	10562
private statutes defined.....	10541
private writings	
classified	10577
defined	10541
how acknowledged and proved	10596
public officers to give copies...	10543
public records	
of, how proved.....	10569
of private writings, how proved	10569
not to be removed from office	10597
public statutes defined.....	10543
public writings	
classification of.....	10544
defined	10540
recitals in statutes, when conclusive	10553
record of another state, effect of	10563
conveyances of estates.....	10280
court of admiralty.....	10564
repeated entries in course of business deemed originals...	10595
right	
of citizens to inspect, and copy public writings.....	10542
of inspection.....	10542
to take copy.....	10542
seal	
compromise of debt without.	10582
defined	10578
effect of.....	10580
how made.....	10579
subscribing witness defined....	10583
terms, how construed.....	10522
unwritten law defined.....	10549
when evidence of execution not necessary	10590

EVIDENCE (Continued)

Writings (continued)	
written law, where contained..	10547
written laws defined.....	10546
written words control printed..	10523
Written agreement presumed to contain entire contract.....	10517
exceptions	10517
Wrongful possession of explosives as	11283

EXAMINATION

Accounts of all public offices—See Examiners, State Board of— See also State Accountant.305—	309
Bail, order for.....	11788
Claims against state—See Examiners, State Board of	
Commitment for	
form of	11777-11790
how made and delivered to whom	11789
on charge of capital offense....	11776
order of	11787
when and how.....	11786
Counsel, defendant may send for.	11774
Court may control.....	10661
Cross, of witnesses.....	11779
scope of	10665
Defendant	
discharged, how and when.....	11785
when to proceed.....	11775
witnesses for, when.....	11780
Depositions of witnesses....11794, 11795	
Direct and cross, defined.....	10662
Examination, when to begin.....	11775
Exclusion of	
persons from room.....	11782
witnesses, when	8848, 10660, 11781
Good character of witness.....	10670
Insane persons—See Insane Asylum, State	1431- 1438
Leading questions	10663
Magistrate to	
inform defendant of his rights.	11773
issue subpoenas	11778
return testimony, etc., to clerk of district court.....	11796
Of witness—See Witnesses	
Oral, defined	10634
Order of proof.....	10659
Postponement, course to be pursued	11776
Preliminary	
defendant may waive.....	11797
form of commitment.....	11790
what papers to be returned to court	11796
Production further evidence, when forbidden	10661
Reduced to writing in homicide cases, when and how.....	11783
Re-examination, when permissible	10659
Refreshing memory of witness...	10664
Testimony	
by whom and how kept.....	11784
in writing, how authorized....	11783

GENERAL INDEX.

EXAMINATION (Continued)

Undertaking of witness to appear	11791, 11792
Waiver of preliminary	11797
Who may be present at preliminary	11782
Witnesses—See Witnesses	

EXAMINER, STATE

Access to accounts of public officers	214
Appointment and term	209
Assistants to, appointment and salary	219
Banks, examination of—See also Civil Code	210
Bond of examiner and assistants	223
Budgets for counties, duties concerning—See Budgets	224
Confirmation by senate	209
Contingent revolving accounts, establishment of	195
Deputies, appointment and salary	219, 220
Duties of	210
Ex officio superintendent of banks	6070
Examination of	
accounts of cities and towns	215
accounts of school districts	215
cash and accounts of state officers	210
county licenses	2414
Expenses of	218
Failure of county officers to transmit statements	213
Irrigation districts, examination of records	7260
fee for	7260
Laws applicable to examinations by	216
Payment by cities and school districts for examination by	217
Penalty for	
failure to pay fees of	222
officer's failure to transmit reports to	213
refusal to permit examination	214
Powers concerning examination	212
Salary of examiner and employees	218, 438
State	
and county officers to aid in examinations	211
examiners' fund	221

EXAMINERS, STATE BOARD OF

Appeals from disapproval of claims	248
Approval of claims by	239
Audit	
bills for transportation of prisoners	12464
claims expenses of district judges	8817
state prison accounts	12463
Auditor	
and treasurer must permit examination	253

EXAMINERS, STATE BOARD OF (Continued)

must not pay until approved by	249
Authority to	
establish contingent revolving accounts	195
invest certain special funds in state general fund warrants	270
transfer moneys from certain special accounts to correct errors	271
Authorize printing public reports	520
Bonds	
issues of, powers concerning—	
See Bonds	5554
of state officers, power to fix	465
on bids for supplies	262
Bounty claims, duties concerning	3412, 3413
Claims	
duty to pass upon	232
for which appropriations have been made	238
for which no appropriations have been made	241
Clerical help, employment of	268
Composition of	116, 232
Contingent revolving fund, power to establish	285
Contracts in excess of appropriation forbidden	269
Control of expenditures state institutions by	850
Depositions before	237
Disapproval of claims	240
Dissent to be entered	234
Disqualifications of members	246
Duties as	
board of supplies and furnishing board	256
advertisement of contracts	257, 258
awarding contracts	259
bond for performance of contract	262
classification of supplies	263
composition of furnishing board	254, 255
governor and treasurer to approve contracts	264
interest in contracts forbidden	267
rooms for state officers	266
supplies for legislative assembly	265
to budget—See Budget	294
Examination of books of	
auditor	251
treasurer	253
Expense account of judges, audit of	8817
Expenses of	
national guard	1373
sale of state lands	1918
secretary of state	144
Funds, when available	272
Interest in claims forbidden	246
Inventory of property, duty to take	256

GENERAL INDEX.

EXAMINERS, STATE BOARD OF (Continued)

May authorize contracts in excess of appropriations	269
Meetings and officers.....	233
Monthly statements	252
Neglect of duty a felony.....	11331
Notice to treasurer of unauthorized warrants	250
Penalty for violation of duty.....	11331
Power to fix number, compensation and term of civil executive employees	273
compensation not to exceed maximum limitation	274
power of officers to appoint assistants	275
Presentation of claims to.....	238
President of board.....	233
Printing, regulation of—See Printing	276
Records	234
Rejected claims, reconsideration of Report to legislature.....	245
Restrictions on powers.....	247
Rules and regulations.....	235
Salary of clerk.....	437
Secretary of board.....	233
Special funds, investment in general fund warrants	270
law enforcement officers authority to appoint.....	11085
how paid	11085
oath and removal.....	11085
State depositories, regulation of..	182
State printing, union label....	260, 261
State treasurer expert examination of books of..	191
temporary suspension by.....	190
Statements, monthly, publication of	252
Subpoenas, power to issue.....	236
Three million-dollar treasury certificates, authority to issue—See Bonds	5615
To authorize printing reports state officers	520
Unsettled claims meeting to act on.....	243
presentation of	242
proof of examination of.....	244
report on	245
Veterans' welfare fund, borrowing money for	5655-5664
Vouchers of state officers, duty to pass on to be presented to.....	458
Warrants to be drawn in payment of claims	239
Witnesses before	236

EXCEPTIONS

After judgment, how settled.....	9391
Amendments, how prepared.....	9390
Application to supreme court to approve, when	9392
Bill of exceptions in civil cases amendments	9390

EXCEPTIONS (Continued)

Bill of exceptions in civil cases (continued)	
evidence, when set out verbatim how	9390
prepared	9390
settled	9390
signed and filed.....	9389
judge to sign and file.....	9390
may contain what.....	9394
must contain matters affecting substantial rights	9394
notice to adverse party.....	9390
procedure when judge ceases to hold office	9393
proposed amendments	9390
redundant matter stricken.....	9390
settled, how	9390
stated in narrative form.....	9390
time for preparation.....	9390
to contain all material rulings..	9394
Defined	9386
Either party entitled to settlement For defective findings	9394
filing and service.....	9371
how made	9370
Formal, when not required in civil cases	9387
How stated	9388
In criminal cases allowed for what.....	12037
bill to be prepared and presented	12044
settlement of	12044
decisions of court, when deemed excepted to	12038, 12039
defendant may except to what..	12037
how and when settled by supreme court	12040
prepared and settled.....	12045
not necessary in criminal trials, when	12041
preparation of	12044
procedure for settlement and signing... when exceptions to challenge overruled	12044 11948
record on appeal, contents of.....	12045
transcript of minutes in lieu of, when	12045
review of bill without exception, how obtained.....	12045
settlement of bills, how obtained	12044
supreme court may settle, when and how	12040
time for preparation.....	12044
to challenge if sufficiency denied.....	11947
procedure on	11963
to settlement of instructions, how preserved	11969
transmission by clerk to judge.	12044
what decisions deemed excepted to	12038, 12039, 12043

GENERAL INDEX.

EXCEPTIONS (Continued)

In criminal cases (continued)	
when not required in criminal cases	12041
written charges not to be excepted to	12043
Need not be noted, when.....	9387
proviso	9387
Objections to be stated.....	9388
Pending motion for new trial, need not be prepared.....	9390
Preparation and service.....	9390
To	
errors in instructions, when necessary for reversal or new trial	9349
finding of referees.....	9385
findings necessary	9369
What deemed excepted to.....	9387
When taken	9386

EXCESSIVE DAMAGES

Ground for new trial.....	9397
---------------------------	------

EXCHANGE

Defined	7632
Deposit for	7641
Form of contract.....	7633
Sale, provisions applicable.....	7634
Warranty on exchange of money	7635

EXCLUSION

Certain persons at preliminary examinations	11782
Of persons from court, in civil actions, when	8848, 10660
Witnesses by magistrate on preliminary examination	11781

EXCUSABLE HOMICIDE

Not punishable	10967
What constitutes	10963

EXCUSABLE NEGLECT

Ground for new trial.....	9397
Opening default for.....	9187

EXECUTION

Deeds—See Deeds and see also Conveyances	
Of	
instrument, defined	10581
official bonds, how.....	475
order for payment of money...	9777
Unacknowledged instruments, how proved—See Instruments.....	6920- 6933

EXECUTION OF JUDGMENT

Copy of minutes to be furnished officer	12087
Fine and imprisonment, how.....	12089
Fine, how issued.....	12088
Judgment of death	
duty of county attorney upon inquisition on question of sanity	12096
execution to take place, when and where	12103
how executed	12093

EXECUTION OF JUDGMENT

(Continued)

Judgment of death (continued)	
insanity of defendant, how determined	12095
inquisition, how certified....	12097
punishment of death, how inflicted	12102
remaining in force, but not executed	12101
return upon death-warrant....	12104
when suspended	12094
Judgment of fine and imprisonment, how executed.....	12341
Judgment of imprisonment, how executed	12090
duty of sheriff.....	12090
power of sheriff.....	12091
Judgment of justices' courts.....	12326
Judgment other than death, how executed	12087
On affirmance of judgment.....	12130
Power of officer executing.....	12091
Pregnancy of female, proceedings upon	12099
execution, when suspended....	12100
findings of jury.....	12100
Proceedings upon finding of jury.	12098
Sentence to hard labor, when imposed	12092
Sheriff may retake prisoner.....	12091
Stay, certificate of probable cause	12113-12115
What constitutes authority for...	12087

EXECUTION SALES

Right to possession purchaser of land	9449
---	------

EXECUTIONS

After death, how enforced.....	9422
After six years, how enforced....	9421
Against	
boats, how issued.....	9614
estate of decedents, issues when	10186
executor on claim against estate	10185
partnership property, how levied	9425
Arrest until payment, when.....	9417
Certificate of sale, when given....	9441
Claim for wages on levy of—See Wages	8353- 8357
Clerk may have for costs, when..	9812
Clerk to record what.....	9419
Contents of writ.....	9417
Contribution, how and when compelled	9451
Costs, how claimed.....	9805
in probate proceedings.....	10372
Death, execution after.....	9422
Directions to sheriff.....	9417
Enumeration of property subject to Excess proceeds, how disposed of.	9431
Execution after six years, how...	9421
Execution book, contents of.....	9419
Execution of writ, how.....	9431
Exemption of military property from	1372

GENERAL INDEX.

EXECUTIONS (Continued)

Exemption from	9427- 9430
unmarried person, when entitled to	9427
For costs, clerk or sheriff may have, when	9812
For enforcement justice's judgment, when issued.	9693
Form of.	9417
From justice courts—See Justice Courts	9693- 9697
Garnishment law applies to public officers.	9452
Gold-dust, how returned.	9424
Homestead, how exempt from 6948,	9430
How and when issued.	9423
How enforced.	9420
How issued.	9423
How levied.	9417
In eminent domain.	9950
In mandamus.	9858
Judgment debtor	
earnings, when exempt.	9429
may indicate property to satisfy	9431
Judgments for sale of property, how enforced.	9420
Justice Court—See Justice Courts	9693- 9697
Leasehold interests subject to.	1894
Levy on property of public officers	9452
Liability of sheriff for failure to levy	4781
Lien of officer on.	8391
Liens for wages, how asserted.	8354
May issue	
after discharge from prison.	9884
when	9416
Money judgments, how enforced.	9420
Mortgaged personal property, how taken	9425
Not to issue against counties.	4450
Notice of sale of property	
how given.	9432
liability of sheriff for unauthorized notice.	9433
Officer's liability, how limited.	9438
On deficiency judgment.	9467
Order of levy.	9417
Partnership interests, execution against	9425
Penalty for selling property without notice.	9433
Person paying more than share may compel contribution.	9451
Personal property	
capable of manual delivery, certificate	9439
not capable of manual delivery, certificate	9440
Postponement of sale, when.	9435
Proceedings if title to real property fails.	9450
Proceedings supplemental to execution	
arrest of judgment debtor, when bail may be given.	9455

EXECUTIONS (Continued)

Proceedings supplemental to execution (continued)	
citation to judgment debtor, when issued.	9457
debtor of judgment debtor	
examination of.	9457
may pay creditor.	9456
debtor required to answer concerning property, when.	9454
disobedience of orders, how punished	9461
judge or referee may order property applied.	9459
persons not excused from answering, when.	9462
privileges of witnesses.	9462
proceedings to compel debtor to appear	9455
proceedings upon claim of property by another party.	9460
receiver	
appointed, when and how.	9463
oath and undertaking.	9464
property vests in, when.	9465
title by relation.	9466
title by relation.	9466
witnesses required to testify.	9458
Proceedings when against homestead	6953
Proceeds of accident insurance exempt	6250
Property	
covered by conditional sales notes or agreements, how taken	9291
exempt from.	9427
specific exemptions.	9428
liable on.	9424
not exempt, when.	9428
Purchaser refunding to pay, effect of	9436, 9437
Real property, interest acquired on sale.	9441
proceedings if title fails.	9450
when absolute.	9441
Real property sold, how redeemed	9442
Redemption	
by corporation or stockholder, how effected.	9444
by creditor of defendant.	9442
certificate of redemption, how and when issued.	9444
effect of.	9444
how effected.	9442
judgment debtor or redemptioner may redeem, when.	9444
notice of redemption given.	9444
papers necessary for.	9446
payments, to whom made.	9445
possession of land during period of redemption.	9449
purchaser entitled to sheriff's deed, when.	9444
redemption money, how paid.	9443
rents and profits	
action for accounting.	9448
who entitled to.	9448

GENERAL INDEX.

EXECUTIONS (Continued)

Redemption (continued)	
sheriff's deed to issue, when...	9444
statement of rents and profits,	
how complied.....	9448
waste, court may restrain.....	9447
Redemption money, how and by	
whom paid.....	9443
Redemptioners defined.....	9442
Rejection of bids, when.....	9437
Return of excess property.....	9431
Returnable, when.....	9419
when made.....	9419
Runs to any county.....	9423
Sales	
how conducted.....	9434
how postponed.....	9435
injunction after, when.....	9496
liability of officer.....	9438
notice, how given.....	9432
penalty for selling without notice	
.....	9433
Shares in corporation, how levied	
on	9424
Sheriff may have for costs, when	
State land leases subject to.....	9812
1894	
Stock of co-operative associations	
exempt	6383
Third party claims.....	9426
Time for issuance.....	9416
Validation of certain sales.....	9453
What liable on.....	9424
When all defendants not served..	9418
When effective.....	9424
Who may purchase at sale.....	9434
Writ	
how executed.....	9431
to require what.....	9417

EXECUTIVE

Officers classified.....	109
State board of examiners to regulate employees of.....	273- 275

EXECUTIVE BOARD

For state institutions—See Education, State Board of.....	841- 851
---	----------

EXECUTIVE OFFICERS

Asking or receiving bribe, punishment for.....	10824
Giving or offering bribes to, forbidden	10823
Penalty for resisting.....	10825

EXECUTIVE RESIDENCE

For governor.....	129
-------------------	-----

EXECUTORS AND ADMINISTRATORS

See Probate Proceedings	
Conversion by larceny.....	11382
Foreign, satisfaction of mortgage by	8271
Married women may act as.....	5808
May apprentice child of testator	
Nomination, intention of testator	7065
Not to act until qualified.....	7067
Penalty for failure to file reports	10918
Powers to appoint successor void	7066
Property, how assessed.....	2012

EXECUTORY

Agreement transfers title.....	6880
Consideration	7507
how ascertained.....	7508
uncertain	7508
Contract, covenants implied.....	7589
Contract defined.....	7552
Contract for sale of instrument in writing, warranty.....	7617
Obligations extinguished by destruction of contract.....	7571

EXECUTRIX

Married woman may act as.....	5808
-------------------------------	------

EXEMPLIFICATION

Judicial records, how.....	10555-10557
Justice's judgment in sister state	10571, 10572

EXEMPLARY DAMAGES

Recoverable for loss of money at gambling	11173, 11174
When allowed.....	8666
Who not liable for.....	5686

EXEMPTIONS

Benefits of fraternal societies....	6326
Earnings for personal service, when exempt.....	9429
Employees of school for deaf and blind	1460
Explosives, from act governing..	2802
False certificates by fire departments, punishment.....	11526
From	
jury service, not grounds for challenge	11961
payment of court costs.....	9810
Homesteads from forced sale....	6948
Insurance money from execution.	6250
Irrigation district property and bonds, from taxation.....	7209
Jury duty, members of national guard	1401
Members of fire companies.....	5144
Military duty, from enrollment..	1342
Militia, from arrest.....	1378
Nonresidents not entitled to....	9427
Of	
jurors, affidavit of claim.....	8895
property from inheritance tax.	10380
Persons exempt from jury duty..	8893
circumstances justifying.....	8894
Policemen	5102
Poll-tax	1401, 2273
members of national guard.....	1401
Property	
from execution.....	9427
specific exemptions.....	9429
when not exempt.....	9427
from inheritance tax.....	10380
from taxation.....	1998
not exempt, when.....	9428
Property of cemetery associations	6486
co-operative associations.....	6383
on assignments for benefit of creditors	8638

GENERAL INDEX.

EXEMPTIONS (Continued)

Uniforms and equipment of militia from execution and taxation.	1372
Unmarried persons to what entitled.....	9427
when entitled to.....	9427
Water users' associations from fees and taxes.....	147

EXHIBITION

Of deformities prohibited.....	11262
--------------------------------	-------

EXISTENCE

Corporations cannot be questioned	5998
-----------------------------------	------

EXITS

Public buildings, regulation of..	11266
-----------------------------------	-------

EXONERATION

See Suretyship.....	8195- 8209
Of bail.....	9204- 9206

EXPENSES

See also Fees	
Arresting fugitives from justice..	12427
District judges holding court in other counties.....	8824
Itemized statement, verification and filing.....	8825
Of	
district judges sitting out of dis- trict	8816
audit and payment of.....	8817
trial for escapes, how borne...	10872
Penalty for collecting excess.....	459
Removal of prisoner to testify..	12186
State examiner allowed.....	218
Superintendent of	
banks, how paid.....	6080
schools, payment of.....	4948
Transportation of insane defend- ant	12219
Traveling, public officers, rules governing	443
Witness outside of county.....	12182

EXPERIMENT STATIONS

See College of Agriculture and Mechanic Arts.....	891- 901
Poisons, duties concerning certifi- cates	2611, 2612

EXPERTS

As witnesses, forgery of bank bills	11983
Grand jury may employ, when...	11832
Handwriting, evidence of...10524,	10531
Unwritten law of other state...	10552
What may be proved by.....	10531
Witnesses, fees of.....	4947

EXPLOSIVES

Blasting caps, storage of.....	2793
maximum allowed.....	2789
Burglary with.....11351,	11352
Careless use of.....	2812
Certificate of compliance.....	2794
Containers	2791
Danger signs.....2792, 2798,	2810
Death from explosives.....	11229
Defined	2786
Destruction of buildings by, pun- ishment	11477

EXPLOSIVES (Continued)

Discharging firearms.....	2799
Effect of unconstitutionality act..	2802
Entering buildings containing....	2797
Exceptions from act.....	2787
Exemptions from act.....	2803
Existing ordinances not affected..	2804
Fire marshal, duties concerning..	2794- 2796
Fishing with, prohibited.....	3717
Handling after dark.....	2815
Inspection by state fire marshal..	2796
Intoxication, prohibition against	2798
License, fee for.....	2795
Magazines	
classification of.....	2792
construction	
and location.....	2809
near cities and towns.....	2809
of	2792
danger signals.....2792,	2810
Manufacture of sale for wrongful use a felony.....	11281
possession presumptive evidence	11283
principals, who liable as.....	11282
Maximum storage allowed.....	2789
Nitroglycerine, misrepresentation concerning	2805
Penalty for violation of act..2800,	2813
when death results from.....	2814
Placing on railroad tracks..11468-	11471
Possession of shells or bombs, when prohibited	2801
Prohibition concerning.....	2787
Quantity and distance table.....	2788
Record of sale to be kept.....	2806
Reduction of distances.....	2790
Regulation by cities.....	5039
Regulation of transportation by railroads	6521
Sale to minors forbidden.....	2787
inspection of records.....	2806
Smoking, prohibition against....	2798
Storage	
and handling in mines....3521,	3522
in cities and towns.....	2808
in coal mines.....	3521
in mines.....	2807
Toy pistols, etc., sale forbidden...	11310-11313
Transportation of.....	2798
on passenger vessels or vehicles	2811
Use to take fish forbidden.....	3717
Who may enter building contain- ing	2797

EXPOSURE

See Indecent Exposure.....11136-	11139
Of infected clothing.....	11503

EXPRESS AGENTS

Exempt from jury duty.....	8893
----------------------------	------

EXPRESS COMPANIES

Assessment of property.....	2017
Consolidation with foreign com- panies	6001
Duplicate receipts to be marked.	11462
Duties concerning prohibition act —See Intoxicating Liquors...	11058-11061, 11118

GENERAL INDEX.

EXPRESS COMPANIES (Continued)

Fictitious bills of lading, punishment for issuance.....	11459
Good-faith in issuance, when defense	11461
Included under provisions of act creating railroad commissioners	3792
License tax—See Taxation...2305—	2313
Must maintain telephones in offices	6579
Unauthorized sale of property by, when	11463

EXPRESS TRUSTS

For what purposes created.....	6787
Trustee to have whole estate....	6790

EXTENSION OF TIME

By courts, when.....	9823
For filing papers.....	9823

EXTENSION WORK

In agriculture and home economics, appropriation for.....	4487
---	------

EXTINCTION

Contracts—See Contracts....7563—	7572
Obligations—See Obligations.....	7424— 7466

EXTORTION

Blackmail, definition.....	11397
By employers or foremen, witnesses	11405
judicial officers.....	10855
public officers.....	10826
railroad companies, when.....	3804
Compulsion to execute instrument	11393
Defined	11389
Employer discounting wages....	11403
Employers requiring employees to release from liability.....	11402
Fear produced by threats, defined	11390
Foremen soliciting gifts.....	11404
Immunity of witnesses.....	11405
Obtaining signature to instruments	11392
Of fees under color of official right	11395
Offer to prevent publication of libel	10998
Oppression under color of official right	11394
Punishment	11391
when under color of official right	11396
Railroad employees, by.....	11401
Refusal to pay wages without discount	11403
Threats referring to act of third person	11400
Under color of official right....	11395
Verbal threats.....	11399
What threats constitute.....	11390
Written threats, sending.....	11398

EXTRADITION

See Fugitives from Justice:12418—12428	
--	--

EXTREME CRUELTY

Cause for divorce.....	5736
Defined	5738

FACTOR

Actual authority.....	7979
Cannot relieve liability, when....	7809
Defined	7805, 7978
False statements by.....	11415
Liability for endorsement of negotiable instruments.....	8476
Liability under guarantee and commission	7808
Lien of.....	8387
Must obey principal.....	7806
Ostensible authority.....	7980
Sales by, on credit.....	7807
Undertaking to sell real personalty need not be in writing..	8175

FACTORIES

See also Workmen's Compensation Act	
Inspection of, by commissioner of agriculture, labor and industry	3637

FACTS

Findings of.....	9367
Issues of—See Issues	
Judicial notice of.....	10532
Proof of—See Evidence	
Questions of, addressed to jury..	10698
Reference ordered, when.....	9374
To be stated in complaint.....	9129
What may be proved on trial....	10531

FAILURE OF PROOF

Variance, when.....	9185
---------------------	------

FAIRS

See Counties.....4545—	4550
See State Fair.....1580—1582,	3640—3644
Injury to exhibits.....	11498

FAKERS

Defined	11425
Punishment	11425

FALLON COUNTY

Boundaries and county seat.....	4317
---------------------------------	------

FALSE ADVERTISING

See Advertising.....11422—11424	
---------------------------------	--

FALSE ARRESTS

Penalty for.....	10921
------------------	-------

FALSE IMPRISONMENT

Action upon, time for commencement	9032
Definition	10988
Punishment	10921, 10988

FALSE PERSONATION

Acts constituting.....	11407
Marriage under.....	11406
Receiving property in false character	11409

FALSE PRETENSES

Evidence on trial for.....	11987
Obtaining property by.....	11410
mock auction.....	11414

GENERAL INDEX.

FALSE PRETENSES (Continued)

Respecting pedigree of animals...	11417, 11418
Sale of mines under.....	11419
Statements as to financial condition	11408
Verbal, constitute when.....	11383

FALSE REPORT

Expenses of sheriff.....	4910
Mileage of sheriff.....	4909
Penalty for.....	4908

FALSE REPRESENTATIONS

To procure workmen.....	11220
penalty for.....	11221

FALSE STATEMENT

By commission merchants, agents, etc.	11415
By officer of corporation.....	5942
In certificate of special partnership	8028
Respect financial condition, punishment	11408
Seller of merchandise in bulk, penalty	8609
Statement of untruth not known, effect of.....	10887
To insurance company.....	8101

FALSE WEIGHTS AND MEASURES

See Weights and Measures..	11429-11431
Punishment for increasing weights	11240

FALSIFICATION OF EVIDENCE

See Evidence.....	10891-10897
-------------------	-------------

FAMILY ALLOWANCE

See Probate Proceedings...	10144-10150
----------------------------	-------------

FAMILY BIBLES

Entries in, as evidence.....	10531
------------------------------	-------

FARE

See also Railroad Corporations.	6562- 6587
Of common carriers.....	7851
when payable.....	7863- 7865

FARM BUREAUS

See Counties.....	4542- 4544
Duties concerning extermination of gophers—See Gophers.	4495, 4496

FARM LOANS

See State Lands.....	1928- 1948
----------------------	------------

FARM UNITS

Sale of irrigable state lands in...	1992- 1995
-------------------------------------	------------

FARMERS

See also Agriculture, Labor and Industry, Department of	
Exemptions	9428

FARMERS' INSTITUTES

Appropriation	1579
Board of administration	
authority to hold institutes...	1576
composition and duties.....	1576
may employ agents.....	1576

FARMERS' INSTITUTES (Continued)

Establishment	1576
Expenses, how paid.....	1577
Instruction	1576
Meetings	1578
when and where held.....	1576

FARMS

Registration of name, procedure	6897
---------------------------------	------

FARRIER

Defined	3222
License for.....	3221

FAST DRIVING

Over bridges prohibited.....	11252
------------------------------	-------

FATHER

See Parent and Child.....	5830- 5867
---------------------------	------------

FEAR

Element in robbery.....	10974
Extortion through.....	11390
Not to justify killing, when....	10966

FEDERAL COURTS

Injunction not to stay proceedings	9242
Lien of judgment, docketing....	9415

FEE SIMPLE

Defined	6724
Presumed to pass, when.....	6866
Words of inheritance unnecessary	6855

FEE TAIL

Abolished	6725
-----------------	------

Feeble-Minded Persons, Training School for

Application for admission.....	1475
Construction of act.....	1483
Course of study.....	1481
Court to ascertain available accommodations	1479
Epileptics, admission of.....	1477
laws applicable to.....	1478
Establishment	1474
Examination and order of commitment	1476
Expenses of commitment, how paid	1480
Procedure for removal of inmates	1482
costs and appeals.....	1482

FEES

See also Costs	
Attorneys'	
See Attorneys-at-Law, subtitle fees	
allowance on foreclosure of liens	9799
on application for admission..	8950
Automobile registration.....	1760
Clerk of	
district court, in probate proceedings	4918, 4919
supreme court.....	372
Commissioners of deeds.....	4915
Compensation of county officers—	
See Salaries	
Constable	4932

GENERAL INDEX.

FEES (Continued)

Coroner	4922
Corporation filing.....	145
County clerk	4917
to be paid.....	4809
commissioners	4464
for inspection work.....	1632
to examine.....	4746
officers	4867
forbidden to retain, when...	4864
may retain, when.....	4865
paid in advance.....	4892
paid into county treasury....	4864
surveyor	4921
treasurer for tax-deed.....	4920
Duty of county officers to report..	4745
Examination by insurance commissioner.....	166
state examiner.....	217
Expert witnesses.....	4947
Extortion under color of official right	11395
Filing articles co-operative marketing associations	6449
of foreign corporations.....	6662
of secretary of state.....	145
Folio, defined.....	4899
Fraternal and religious societies..	146
Illegal receipt by county officers to vacate office.....	4911
Increased capital stock foreign corporations	6651
Industrial accident board.....	2834
Inspection and weighing of grain.	3581
Interpreters	4946
Judges and clerks of elections..	591
Jurors in courts of record.....	4933, 4934
in other courts.....	4935
Justices of peace civil actions.....	4924
criminal actions.....	4926
disposal of, in certain townships	4930
miscellaneous	4927, 4929
paid in advance.....	4925
penalty for violations of law..	4931
protested license fees, disposal of	2409
when retained.....	4928
Keepers	4916
Limit on in criminal cases.....	4932
Members of legislature.....	74
Mileage—See Mileage	
Must be paid in advance.....	4892
Naturalization	4894
No fees for copies, when.....	9832
Not to be charged state or county, when paid public officers for procuring fugitives from justice....	12428
Notaries public.....	4914
Of executors and administrators...	10287
guardians	10425
insurance corporations—See Insurance Corporations	

FEES (Continued)

Of (continued) officers and witnesses in enforcing prohibition law.....	11110
must be itemized.....	9813
witnesses, payment of.....	10620
Officers and employees of legislature...	76
services at close of session..	78
issuing fishing and hunting licenses	3707
Official receipts to be issued for..	4895
Payable into county treasury....	4887
Payment in advance.....	4892
Penalty for failure to pay over.....	4907
false oaths	4906
report	4908
misrepresentation by sheriff...	4909, 4910
receiving excessive.....	4897
Prepayment, when required.....	9811
President of senate.....	75
Public administrator.....	4923, 10017
Recorder's to be endorsed.....	6896
Recording and rerecording brands	3367
Referees	9792
Register of state lands.....	1823
Registration motor vehicles.....	1760
Removal of officers for collecting illegal	11702
Secretary of state.....	145
for certificate as to notary public	397
from corporations.....	145
from religious societies.....	146
miscellaneous	145
recording permit use nonbeverage alcohol.....	11090
Service of summons on secretary of state.....	9113
Sheriff	4916
for board of prisoners.....	4886
for delivering state prisoners..	12464
for transportation of prisoners.	4885
Speaker of house.....	75
State auditor—See also Insurance Commissioner and Investment Commissioner	4912
not to be charged.....	4893
Statement and affidavit of fees collected..	4888
to be posted in public offices..	4896
Stenographers	8932
Tender of fees for publication...	4898
Transcript, when paid by county	8931
Treasurer to file affidavits of fees collected..	4888
issue duplicate fee receipts....	4889
Unlicensed attorneys, allowance to forbidden.....	8958
Vacation of office for receiving illegal	4911
What county officers to receive for their own use.....	4865

GENERAL INDEX.

FEES (Continued)

When not to be charged.....	4893
Witnesses	
at coroners' inquests.....	4942
certificate of attendance.....	4903
in	
civil suits, when and by whom	
paid	4943, 4944
courts not of record.....	4941, 4942
courts of record.....	4936
disbarment proceedings.....	8955
tender of fees not necessary,	
when	4902

FELLOW-SERVANT

See Railroads.....	7766, 7767
Defense excluded, when.....	2836

FELONY

All criminal offenses, whether felonies or misdemeanors, are listed alphabetically under the title Criminal Offenses	
Arraignment, defendant to be present	11876
Arrest	
defendant taken before what	
magistrate	11739
of defendant at any time.....	11757
of defendant by private person.	11754
without warrant.....	11753
Codefendants, separate trial.....	11973
Compromise prohibited.....	12222
Conviction as ground for divorce	5736
Conviction, laches in application..	5762
Conviction of, causes vacancy in office	511
Conviction of, may be shown....	
.....	10668, 10674
Defined	10723
Dismissal not a bar.....	12054
Judgment, time for pronouncing..	12055
Limitation of action, defendant	
out of state.....	11725
five years.....	11723
time not counted.....	11727
Punishment, not otherwise prescribed	10724
Sentence, defendant's presence...	12057
Trial, defendant to be present....	11931
Verdict, presence of defendant...	12018
When classed as misdemeanor..	10723

FEMALES

See Hours of Labor.....	3076- 3079
See also Husband and Wife	
See also Married Women	
See also Vocational School for Girls	12519-12546
Age of minority.....	5673
Employment agencies forbidden to place, where.....	4170
Equal pay for equal service....	3090
Seats for employees.....	3077
Unmarried, may prosecute for seduction, when.....	9073

FENCES

Barbed-wire	
regulation of.....	11557
repair of.....	3376
Damage to planted trees within..	3377
Duty of coterminous owner to maintain	6777
Fencing, when joint occupancy ceases	6780
Gates, leaving open.....	11528
Injuring, punishment for.....	11482
Legal	
defined	3374
liability	
for damages from defective..	3375
of owners of trespassing stock	3378
Maintenance by railroads along line	6540
regulations concerning.....	6552
Malicious destruction of, punishment	11485
Partition	
how regulated.....	3383
maintenance by adjacent owners	6778
notice to repair.....	6782
when	
maintained at joint expense..	6779
removed	6781
Removal of, on alteration of highway	1648
Taking up and retaining trespassing stock.....	3379
Unlawful and dangerous, punishment for maintaining.....	11557

FERGUS COUNTY

Boundaries and county seat.....	4318
Experiment station—See College of Agriculture and Mechanic Arts	891- 901

FERRIES

Accommodation of passengers...	1773
Application for authority to erect	1768
hearing on.....	1769
notice of.....	1767
Assessment of.....	2020
Banks at landing to be kept in repair	1782
Between counties, application, how made	1766
Board of commissioners, power over	1770
Bond to be given.....	1775
County commissioners must not act when interested.....	1777
Establishment within one mile forbidden, when.....	1778
Lands, how acquired for use....	1780
License tax when ferries unite two counties.....	1776
Obstructing fords near.....	11529
Owner of land preferred.....	1779
Penalties, disposal of.....	1774
Powers and duties of county commissioners over.....	1772
Public, establishment—See Counties	4477- 4481

GENERAL INDEX.

FERRIES (Continued)

Rates of toll to be posted.....	1781
Report of owner or keeper.....	1771

FICTITIOUS NAMES

In pleadings.....	9190
Of defendant in justice courts...	9723
Use by partnerships—See Partnerships	8019- 8024

FIGHTING

Disturbance of peace.....	11297
Duels—See Duels	
Promoting fights between animals	11514

FIGURES

Use in courts permissible.....	8881
--------------------------------	------

FILING

Information, when and where....	11626, 11801
Officers not to disclose.....	11628
Official bonds—See Official Bonds	464- 509

FINDING OF PROPERTY

Claimant to prove ownership.....	7687
Duty of person finding lost property	7694
Finder	
may sell property, when.....	7690
sale, how made.....	7691
may store property.....	7689
to notify owner.....	7686
Intentional abandonment, rules applicable	7693
Lost property	
larceny of.....	11376
over ten dollars	
duty of	
appraisers	7695
person finding.....	7694
estrays and lost property book	7696
finder to restore property, when	7698
justices to appoint appraisers	7695
penalty for finder failing to report	7699
proceedings if no owner appears within six years.....	7697
proof, how made.....	7700
suit to recover property.....	7698
Obligation of finder of property	7685
Owner may surrender to finder..	7692
Reward, finder entitled to.....	7688

FINDINGS

Defective, exceptions to....	9370, 9371
Entry of	9366
Judgment not reversed for want of	9369
Of	
fact and conclusions of law separately stated.....	9367
referees, are those of court...	9384
effect of.....	9385
report	9383
Special, control general verdict..	9361
To be in writing.....	9366
Waived, how.....	9368

FINDINGS OF FACT

Separately stated.....	9367
Waived, when.....	9368

FINES

See also Penalties	
Addition to imprisonment.....	11599
And imprisonment, judgment, how executed	12089
Collected	
by justice, payable to whom....	12347
by officer, payable to justice...	12346
Collection after imprisonment....	12072
Deposit applied to satisfaction of	12156
Driving cattle without brands through state, disposition....	11548
Failure to pay over.....	11321
For	
driving cattle over another's land, to whom payable.....	11227
neglect of juror to appear.....	8917
violation of election laws, disposal of.....	10771
Governor may remit.....	12247
How collected from corporations.	12237
How disposed of.....	12433
Imprisonment	
discharge, when.....	12072
pauper's oath.....	12071
Judgment	
a lien on real property.....	12073
for, on appeal to district court, how executed.....	12341
how executed.....	12088
Justice may pay to county treasurer	12347
Justices' courts, imprisonment, when	12329
Legality of, jurisdiction of justice courts	9625
Lien on property disposed of in violation of prohibition law.	11108
May be added to imprisonment, when	11599
Officer must pay to justice.....	12346
Payment, duration of imprisonment	12069
Report of county superintendent of schools.....	1216- 1218
Trespass on	
property, to whom payable....	11336
state lands, school fund.....	11507
Under corrupt practices act, to whom paid.....	10771
Violation of	
fish and game laws, recovery of	3753
marriage laws, disposal of....	5723
school laws, disposal of.....	1324
tax laws, disposal of.....	2062

FIRE

See also Burning	
Building on premises of another.	11482
Camp-fires, control of.....	11500, 11501
Involuntary deposit in case of, when	7638
duty of depositary.....	7639
Liability of innkeeper for loss by	7679
Negligent setting to timber.	11500-11502

GENERAL INDEX.

FIRE (Continued).

- Obstructing attempts to extinguish 11251
- Spark-arresters on locomotives... 6600

FIRE APPARATUS

- When exempted from execution. 9428

FIRE DEPARTMENT

- In cities and towns and unincorporated communities — See Cities and Towns.....5109- 5158
- Issuing false certificate of exemption 11526

FIRE DISTRICTS

- Board of directors, how constituted 5149
- Bond issue to purchase equipment, procedure 5149
- Establishment in unincorporated towns 5148
- In unincorporated towns—See Cities and Towns.....5148- 5158
- Tax to purchase apparatus..... 5148

FIRE INSURANCE

- See Insurance.....8154- 8157
- Burning of insured property false proofs of burning..... 11427
- felony 11426

FIRE INSURANCE COMPANIES

- See Insurance Corporations, subtitle stock and mutual insurance other than life.....6128- 6159
- Taxed to support state fire marshal 2761

FIRE MARSHAL, STATE

- Appeals to, when..... 2754
- Appointment and term..... 2738
- Arrests by, when..... 2747
- Assistant, appointment and salary 2740
- Bond of marshal and deputies... 464, 2760
- Compensation of officers reporting fires 2757
- Complaints by..... 2749
- Condemning dangerous buildings. 2753
- Creation of office of..... 2737
- Deputies
 - salary and expenses..... 2742
 - when appointed..... 2742
- Duties concerning storage of explosives 2794- 2796
- Entering buildings to examine... 2752
- Examination of premises by..... 2751
- Expenses, itemized statement of. 2758
- Failure to
 - comply with orders of..... 2755
 - obey is contempt..... 2753
- Fire-escapes, duties concerning—See Fire-escapes.....2779- 2785
- Further investigations, taking testimony 2746
- Hearing by court..... 2753

FIRE MARSHAL, STATE (Continued)

- Investigation
 - may be private..... 2750
 - of
 - fires in cities and towns..... 2743
 - premises 2751
 - violations of law..... 2749
- Justices of peace, proceedings before 2749
- May tear down building at owner's expense, when..... 2753
- Not to engage in other business.. 2741
- Oaths
 - and bonds of marshal and deputies 2760
 - authority to administer..... 2749
- Officers
 - penalty for violation of act.... 2745
 - to notify..... 2744
- Order
 - of condemnation..... 2753
 - to owner of buildings..... 2753
- Penalty for disobedience by witness 2749
- Perjury, what constitutes..... 2749
- Powers vested in commissioner of insurance 2762
- Records of..... 2756
- Removal of combustible materials 2753
- Reports to commissioner of insurance 2759
- Salary 2739
- Special deputies, appointment and expenses 2742
- State
 - auditor to appoint..... 2738
 - fire marshal fund..... 2761
 - Subpoena, authority to issue.... 2749
 - Tax-levy to maintain..... 2761
 - Witnesses and evidence..... 2748

FIRE WARDEN, STATE

- Creation of..... 2776
- Deputy fire wardens..... 2777
- Expenses, payment of..... 2778
- Fire wardens in unincorporated towns 5141, 5142
- Penalty for failure to comply with orders of fire wardens..... 5142

FIRE WARDENS, STATE

- See State Lands.....1833- 1839
- See also Fires.....2763- 2778

FIREARMS

- Alien gun license—See Game and Fish.....3708- 3711
- Discharging against magazine or factory 2799
- Indians not to carry, where..... 11314
- confiscation and sale..... 11314
- Sale to Indians forbidden..... 11259
- Shooting within city or private enclosure, punishment..... 11530
- Use by children prohibited..... 11565
- liability of parent or guardian 11566
- Use of silencers in hunting..... 3759

GENERAL INDEX.

FIRE-DRILL

In public schools.....	1071
Instruction in fire dangers.....	1072

FIRE-ESCAPES

Actions to enjoin occupancy of buildings	2785
Adequate fire-escapes defined.....	2780
Attorney-general or county attorney to bring abatement proceedings	2785
Construction on certain buildings required	2779
Duty to provide on public buildings	2779
Fire marshal to enforce act.....	2782
Guide-signs and exit-lights.....	2781
How constructed.....	2780
Jurisdiction of state fire marshal.	2782
Lessee, right to deduct cost from rent	2783
Maintenance in hotels and other buildings	2779
Notice to erect.....	2783
Officers to inspect buildings.....	2783
Penalty for violation of act.....	2784
Regulation by cities and towns..	5039
Requirements	2779
Stairways	2779
State fire marshal to prepare specifications	2780
What buildings to maintain.....	2779

FIRE-GUARDS

Railroads to maintain, when and where	6597
---	------

FIREMEN

See Cities and Towns.....	5109- 5140
Disability fund—See Cities and Towns	5117- 5124
License of.....	2720- 2730
Obstruction of, at fire.....	11251

FIRES

See Cities and Towns.....	5109- 5158
See Fire-escapes.....	2779- 2785
See Fire Marshal, State.....	2737- 2762
See Fire Warden, State.....	2763- 2778
Duty of what officers to investigate	2743
Forest, protection from burning brush, slashings, etc., regulation of.....	2771- 2774
without permit, penalty.....	2765
closed season for burning.....	2765
county attorney to prosecute...	2768
failure of.....	2768
definition of terms.....	2763
ex officio fire wardens.....	2764
finer, disposal of.....	2770
foresters, authority to arrest without warrant.....	2767
liability for damages from negligent control of fires.....	2769
magistrates, failure to perform duty	2768
other duties of state forester and wardens.....	2775

FIRES (Continued)

Forest, protection from (continued) permits for burning material...	2765, 2773
periods during which burning prohibited	2773
reference to other duties.....	2775
setting or leaving fires, penalty for	2766
slashings, regulation of burning	2771- 2774
what burnings exempt from act	2765
Steamboats, protection of.....	3864
U. S. officers fire wardens, when	2764

FIRMS

How sued.....	9089
---------------	------

FISCAL YEAR

Cities and towns.....	5217
For taxation purposes.....	2147
State and county purposes.....	518

FISH AND GAME

See Game and Fish.....	3650- 3778
------------------------	------------

FISH AND GAME FUND

Authority to invest in state general fund warrants.....	270
---	-----

FISH AND GAME PRESERVES

See Game and Fish	
-------------------	--

FISH AND GAME WARDEN

See Game and Fish.....	3655- 3663
------------------------	------------

FISH HATCHERIES

See Game and Fish.....	3664- 3666
------------------------	------------

FISHER

Open season for.....	3704
----------------------	------

FISHING LICENSES

See Game and Fish.....	3681- 3707
------------------------	------------

FIXTURES

Attached to mines.....	6670
Defined	6669
Larceny of.....	11380
Ownership, in whom vested.....	6819
Removal by tenant.....	6825

FLAG

Acts constituting desecration, punishment	11561
Exceptions	11563
Meaning of term.....	11562
National, displayed at capitol....	317
expense, how defrayed.....	319
secretary of state to provide...	318
Red flag, exhibiting prohibited..	10745
penalty for.....	10746
School trustees to provide.....	1015
State flag.....	528, 529

FLAG DAY

School not to be dismissed on...	1062
----------------------------------	------

FLATHEAD COUNTY

Boundaries and county seat.....	4319
---------------------------------	------

GENERAL INDEX.

FLATHEAD LAKE BIRD PRE-SERVE

Creation of..... 3768

FLAVORING EXTRACTS

Excepted from prohibition act.... 11050

FLAX

Pounds in bushel..... 4226

FLOORS AND SCAFFOLDS

Building inspector to enforce act 2676

Construction of, how regulated.. 2672

Guarding openings..... 2675

Penalty for violation of act..... 2676

Planking above scaffolds..... 2674

Temporary

floors, when required..... 2673

toilets, maintenance of..... 2675

FLOUR MILLS

See Trade Commission.....3914- 3946

FLOWERS

State flower..... 530

FOLIO

Defined in computing fees..... 4899

How computed in state printing..

.....276, 277

Regulation state printing—See

Printing..... .276- 283

FLUMES

Interference with..... 11467

Malicious mischief..... 11487

Overflowing highways, etc..... 11531

FOOD

Adulteration of, forbidden..... 11241

Dairy products—See Dairies and

Dairy Products—See also Milk

Destruction in restraint of trade

forbidden 10914

penalty for violation of act... 10915

Disposal when tainted forbidden. 11242

Eggs, regulation of sale—See

Eggs.....2634- 2639

Inspection and purity of—See

Pure Food and Drug Act.... 2578

Milk—See Milk

Oleomargarine, stamping of..... 11248

Poisoning, punishment for..... 11194

Possession when adulterated prima

facie evidence of guilt..... 11247

powers of state chemist..... 11247

Publication of list adulterated and

misbranded foods..... 2463

Sale of

containing saccharin—See Sac-

charin2597- 2599

diseased beef forbidden..... 11243

unsanitary meat forbidden.... 3269

Selling meat of diseased cattle.. 11540

Service of adulterated, by hotels

.....11245, 11246

Unsanitary, to be seized..... 2586

Warranty on sale..... 7618

When misbranded..... 2587

FOOL HEN

Certain counties closed until 1923 3701

Limit of bag..... 3701

Open season for..... 3701

FORCE

See also Undue Influence

Element in robbery..... 10973

Marriage, consent to obtained by,

voidable 5698

Marriage obtained by, annulment. 5729

Right to use..... 5694

Use in arrest, when..... 11760

Use of, lawful, when... 10980

FORCIBLE ENTRY AND DETAINER

Abatement of action..... 9892

Acts constituting..... 9887

Amendment of complaint, when

and how..... 9900

Appeals as in other cases..... 9903

Code provisions applicable..... 9893

Complaint

contents of..... 9894

need not be served..... 9894

Concurrent jurisdiction of actions 8841

Continuance, when granted..... 9900

Damages in actions for..... 9478

court to assess..... 9901

Defendant may appear, when... 9897

Execution, when issued in certain

cases 9901

Forcible detainer defined..... 9888

Forcible entry defined..... 9887

Forfeiture of lease, relief against,

when 9906

Judgment

by default, when..... 9896

when and for what entered... 9901

when enforced..... 9901

Jurisdiction of courts..... 9891

Jury to assess damages..... 9901

Justice courts, proceedings in... 9625

Leases, when terminated by acts

of tenant..... 9889

Married woman as tenant, cover-

ture no defense..... 9892

New trials and appeals, provisions

applicable 9905

Nonsuit not granted, when..... 9892

Notice, service of..... 9890

want of, on subtenant no de-

fense, when..... 9892

Parties

defendant, who necessary..... 9892

to actions, generally..... 9893

Punishable, when..... 11300

Recovery of buildings used for

gambling 11177

Relief against forfeiture of lease,

when granted..... 9906

Return after legal removal..... 11301

Rules of practice applicable.... 9904

Showing required in forcible entry

and detainer..... 9899

of defendant..... 9899

of plaintiff..... 9899

GENERAL INDEX.

FORCIBLE ENTRY AND DETAINER (Continued)

Summons	
issuance, form and service.	9894, 9895
new, when issued.....	9895
Treble damages given.....	9478
Trial by jury, when.....	9898
jury, how formed.....	9898
Unlawful detainer	
notice, how served.....	9890
who guilty of.....	9889
Verification of pleadings....	9638, 9902
Who bound by judgment.....	9892

FORECLOSURE

Chattel mortgages—See Mortgages	
.....	8286- 8291
Loggers', mechanics' and all other special liens—See Liens.	8318- 8395
Right of redemption from pledge	8317

FORECLOSURE OF MORTGAGES

Against decedent's estate, claims to be presented.....	10173-10180
Attorneys' fees allowed.....	9798
Chattel mortgages—See Mortgages	
.....	8286- 8291
Court may grant injunction restraining injury, when.....	9496
Deficiency judgment.....	9467
decedents' estates.....	10250-10255
wards' estates.....	10427
Parties necessary.....	9467
Place of trial.....	9093
Possession by mortgagee, how obtained	9495
Power of sale	
how executed.....	9470
what proceedings may be had..	9470
Procedure in foreclosure suits...	9467
Proceedings when debt falls due at different times.....	9469
Rights of purchasers of lands at sale	9449
Sale of real estate	
attorneys' fees, how allowed..	9473
notice, how published, and posted	9471
petition and notice.....	9473
rights of redemption applicable	9472
Surplus money deposited in court	9468

FORDS

Obstructing, near ferry.....	11529
------------------------------	-------

FOREIGN

Affidavits, before whom taken...	
.....	10641, 10642
Corporations—See Foreign Corporations	
Documents, how proved.....	10568
Executors and guardians, powers of	10563
Judgments, effect of.....	10565
Judicial notice concerning facts..	10532
Judicial records, how proved....	
.....	10555-10557
Laws, books containing as evidence	10550-10552

FOREIGN (Continued)

Official documents, how proved...	10568
Proceedings in sister state not stayed	9242
Residents, service of summons on	9117
Seal, effect of.....	10579
Wills, probate of—See Probate Proceedings	

FOREIGN CORPORATIONS

For law regulating foreign insurance corporations, see Insurance Corporations	
Banks	6045
Consolidation of railroads, etc., effect of.....	6001
Filing fees of.....	145
Regulation of—See Corporations	
.....	6651- 6662
Security for costs, when required	9807, 9808
Service of	
process on, how made in certain cases	9112- 9115
summons on, how made.....	9111

FOREIGN INSURANCE COMPANIES

See Insurance Corporations..	6651- 6662
and titles of specific companies	
Defined	6111
Surplus required to transact business	6150

FOREIGN LAWS

Acts punishable under, effect of..	11582
Conviction or acquittal, effect of.	11583

FOREMAN

Grand jury, appointment of....	11816
power to administer oaths....	11822
Solicitation of money from employees, punishment	11404

FOREST FIRES

See Fires.....	2763- 2778
----------------	------------

FOREST RESERVE FUNDS

Apportionment by auditor.....	176
Correction of errors in apportionment	178
Distribution by treasurer.....	175
Percentage to each county fund.	177

FOREST RESERVES

No action of trespass unless lands marked	3382
Owner of land to mark claim....	3380
Prima facie evidence of marking.	3381
Relinquishment of school lands within	1813

FORESTER, STATE

See State Lands.....	1830- 1839
Bond	464
Control of forest fires—See Fires	
.....	2763- 2775

FORESTRY

Forestry board—See State Lands	
.....	1841, 1842

GENERAL INDEX.

FORESTRY (Continued)

Officers ex officio state fire war-	
dens	1833
powers as such.....	1834

FORESTRY SCHOOL

See University, State.....	875- 877
----------------------------	----------

FORESTS

County commissioners to provide	
money for.....	4470

FORFEITURE

Actions, time for commencing....	9032
Bail—See Bail.....	12157-12166
Clerk of district court, neglect of	
duty on change of venue....	11926
Commutation of sentence, when..	12475
Conditions involving construction	7408
Contracts for, of property subject	
to lien, void.....	8230
Conveyance in excess of title does	
not work.....	6870
Conviction of crime not to work,	
when	11605
deodand abolished.....	11605
Deposit, to whom paid.....	12166
Failure to pay over fines.....	11321
Governor may remit.....	12247
How disposed of.....	12433
Limitations, statute of, applicable	9061
Of	
corporate rights.....	9594
lease, relief against.....	9906
office, officers neglecting duty as	
to gambling.....	11171
sentence for crime.....	11600
On conviction abolished.....	11605
Pawnbroker's license, when.....	11185
Place of trial.....	9094
Recoverable	10715
Relief from, by compensation..	8658
Undertaking of witness.....	12185
Witness for disobedience sub-	
poena	10625

FORGERY

Actions against bank on forged	
checks, time for commence-	
ment.....	9046
Checks, liability of banks paying	6093
Effect of forged signature.....	8430
Of nomination papers.....	669

FORGERY AND COUNTERFEIT- ING

Counterfeiting	
making or possessing dies or	
plates	11365
of coins or bullion.....	11362
possessing or receiving counter-	
feit coin.....	11364
punishment	11363
railroad tickets.....	11366
restoring canceled tickets....	11367

Forgery

acts constituting.....	11355
false entries in records.....	11356
of public or corporate seals..	11357
of telegraphic messages.....	11359

FORGERY AND COUNTERFEIT- ING (Continued)

Forgery (continued)	
passing or receiving forged	
notes	11360
punishment	11358
Making, passing or uttering ficti-	
tious bills.....	11361
Misdescription of instrument im-	
material, when.....	11858
Of bank bills or notes, evidence	
on trial.....	11983
Offering forged instruments for	
record	10875
Trademarks—See Trademarks...	
.....	11199-11209

FORMER ACQUITTAL

What constitutes.....	11913
What does not constitute.....	11912

FORMER JUDGMENT

Of conviction or acquittal, when	
bar to prosecution.....	12002
Second prosecution, when forbid-	
den	11612

FORMS

Certificate of acknowledgment...	6914
by attorney in fact.....	6917
by corporation.....	6915
by married woman.....	6916
Certificate of marriage.....	5717
Covenants in grants.....	7590
Grant, simple.....	6860
Mortgage of real estate.....	8263
Notice of assessment of corporate	
stock	5977
delinquency of corporate stock.	5979
dishonor of negotiable paper..	8503
to tenant at will to quit.....	6744
Renunciation by widow of provi-	
sions in will.....	5820

FORNICATION

Penalty for open and notorious..	11006
Punishment for.....	11029
When incestuous.....	11029

FORTS

Authority of United States over	21
---------------------------------	----

FORTUNE-TELLERS

Advertising forbidden.....	11523
liability of newspapers.....	11524
Punishment of.....	11522

FOURTH OF JULY

Holiday	10
School not to be held on.....	1062

FOX

Open season for.....	3704
----------------------	------

FRACTIONS OF TIME

How computed.....	16
-------------------	----

FRANCHISES

Action for usurpation of....	9576, 9577
Grant by cities and towns..	5074- 5077
How assessed.....	2015
Subject to eminent domain.....	9936

FRATERNAL AND RELIGIOUS SOCIETIES

Fees for filing articles.....	146
School fraternities prohibited....	1134

GENERAL INDEX.

FRATERNAL BENEFIT SOCIETIES

See Corporations.....6305- 6344

FRATERNAL SOCIETIES

Exempt from insurance corporations act.....6119- 6125
How incorporated..... 6453

FRAUD

See also Fraudulent Conveyances.
.....11432-11435
Action, when accrues..... 9033
Actual
a question of fact..... 7482
what constitutes..... 7480
As affecting title to negotiable instrument 8462
As grounds for annulling apprenticeship 5898
Assignments 11435
by debtor 10932
Avoids contract..... 7475
Banking officers, penalty for acts by 6054
By-bidding at auction..... 7630
Concealment of property by debtors 10932, 10933
Constructive, what constitutes... 7481
Contract
exempting one from liability for, unlawful..... 7554
not in writing through, may be enforced 7518
Effect
upon marriage contract..... 5729
upon wills..... 6976
Election frauds..... 10747
Error in contract produced by, may be disregarded..... 7531
Evidence admissible to show, in writings 10517
Exemplary damages in cases of.. 8666
Ground for
annulling marriage, when..... 5729
arrest 9194
rescission of contract..... 7565
Impeachment of judgment for.... 10565, 10566
In management of corporations—
See Corporations.....11436-14458
Intent, what sufficient..... 10714
Kinds of..... 7479
Obtaining property by false pretenses 11410
Practices to affect market prices. 11258
Presenting fraudulent claims.... 10828
Pretenses relative to birth of infant 10934
Recovery of property fraudulently disposed of by testators..... 10265
Resulting trust from..... 7887
Sale or removal of property by debtors 10932
Statute of..... 10613
Time to commence action for.... 9033
Upon innkeepers, penalty..... 7684
Verdict to find value of property. 12026

FRAUD (Continued)

When written contract fails to express intent through..... 7531
Witness not excused on ground of, in proceedings supplementary 9462

FRAUDS, STATUTE OF

Agreements not in writing invalid, when.....10613, 10614
Appointment of agent..... 7939
Auctioneer's memorandum, authority 7977
Auctioneer's memorandum of sale. 7631
Contract for sale of personal property 7591
real property.....7519, 7593
Contract of guaranty..... 8175
Interest in trusts, transfer must be in writing..... 6877
Power of attorney to execute mortgage must be in writing. 8258
Promise to answer for obligation of another..... 8175

FRAUDULENT CONVEYANCES

Acts constituting..... 11432
Concealment of effects of insolvent debtor..... 11435
Knowingly receiving property... 11434
Recovery of property by executors, when..... 10265
Removal of property to prevent levy 11433

FRAUDULENT REPRESENTATIONS AND TRANSFERS

See also Insurance
See Transfers.....8603- 8606
Instruments affecting estates in real property, when.....6939, 6940
Sale of merchandise in bulk, when 8607
To innkeepers, penalties....7684, 11579

FREE COUNTY HIGH SCHOOLS—

See Schools, Public

FREE LIBRARIES

See Counties.....4563- 4573

FREE TEXT-BOOKS

See Schools, Public..... 1199

FREE TRANSPORTATION

Railroads, when permitted—See
Railroads6572- 6576

FREEHOLDS

Defined6727, 6728
Malicious injury to, what constitutes 11481

FREIGHT

See Freightage
See also Carriage.....7820- 7827
See also Railroads

FREIGHT CARS

Placing in rear of passenger cars forbidden 11254

FREIGHT LINE COMPANIES

Taxation of—See Taxation..2097- 2110

GENERAL INDEX.

FREIGHTAGE

See also Carriage.....	7820- 7827
See also Railroads	
Apportionment by contract.....	7839
Apportionment of payment on partial delivery.....	7840
according to distance.....	7841
Carrier may demand payment, when.....	7835
Carrier's lien for.....	7843
Consignee, when liable for.....	7837
Consignor, when liable for.....	7836
No charge on natural increase....	7838
No payment for carrying farther than agreed.....	7842
Obligation of carrier to accept freight ..	7847

FRIVOLOUS PLEADINGS

How disposed of.....	9165
----------------------	------

FRUITS

See Agriculture, Labor and Industry, Department of....	3608- 3633
--	------------

FUGITIVES

Return to state industrial school.	12509
reward for.....	12512
Return to vocational school for girls ..	12542

FUGITIVES FROM JUSTICE

Accounts of persons employed to retake, how paid.....	12427
Bail, admission of accused to....	12422
Commitment of accused, when and for what time.....	12421
Duty of county attorney.....	12424
From other states delivered up, when ..	12418
Governor may offer reward for, when ..	12415
Magistrate	
issue warrant, when.....	12419
notify county attorney of arrest.	12423
return proceedings to district court ..	12426
No fee to be paid public officers procuring ..	12428
penalty for receiving.....	10919
Payment of reward, how made....	12417
Person arrested to be discharged, when ..	12425
Proceedings for arrest and commitment of person charged..	12420
Standing reward, when offered...	12416

FUNDING BONDS

District and county high schools for indebtedness incurred before July 1, 1921—See Schools, Public ..	1244- 1251
---	------------

FUNDS

Attorneys' license tax fund, creation ..	8946
expenses paid out of.....	8956
fees deposited in.....	8950
how used.....	8949
transfer to library fund.....	8960

FUNDS (Continued)

Authority of state board of examiners to invest certain special funds in state general fund warrants.....	270
Building and furnishing, for schools ..	1208
Classification fund.....	2027
Common school fund, income, how invested ..	1910b
County	
bounty, creation.....	2084
contingent ..	4632
free library.....	4568
market ..	4491
Department of agriculture, labor and industry, revolving appropriation accounts.....	3645
Deposit of money in various state funds—See Treasurer, State..	192-
.....	197
Designation of, does not affect negotiability of note.....	8410
Gasoline license tax.....	2392
Gopher destruction.....	4498
Land grant funds, how invested..	1910a
Law enforcement.....	11084
Library funds in schools.....	1181
Order of resorting to.....	8237
Payment for purchases with normal school funds.....	930
Permanent funds of state educational institutions	
biennial statement.....	1926
disbursement, how.....	1923
income and interest first used..	1924
land grant funds, how invested.	1910a
money from land sale to go into.	1910
monthly deposit of.....	1922
Poor fund.....	2295
Revolving appropriations for department of agriculture....	3645
state fair.....	3645
university of Montana.....	194
School funds, income, how invested ..	1910b
State	
agricultural college U. S. aid fund (Morrill act).....	897
architectural board.....	3237
banking ..	6085
board of health	
hotel ..	2496
U. S. aid.....	2563
bounty ..	2081, 3414
Carey land act.....	1963
filing ..	1963
chiropractic examining board..	3150
common school permanent.....	1201
common income, how invested.	1910b
contingent, for state institutions ..	285
deaf and dumb.....	1473
escheated estates.....	10001
estray stock.....	3331
examiners' ..	221
fair, revolving appropriation account ..	3645
fire marshal.....	2761

GENERAL INDEX.

FUNDS (Continued)

State (continued)	
forest reserve.....	175, 178
gasoline and oil inspection.....	4208
general	179
transfer of certain bond funds to, authorized.....	198
hail insurance	
administration	355
creation	355
investment of.....	361
reserve	352
highway	1799
trust	1799
industrial accident.....	2993, 3010
administration	2963, 3024
reserve	2999, 3000
industrial school.....	12494, 12514
insect pest fund.....	4502
investment commission, abol- ished	4051
land office expense, abolished..	1920
law library.....	1556
livestock	
commission	3257
sanitary board account.....	3291
sanitary board fund.....	2079
medical board.....	3123, 3124
Montana irrigation.....	3949
motor vehicle registration.....	1760
prison fund.....	12463
protest license, creation of.....	2409
school funds	
common school permanent...	1201
duty of state auditor concern- ing	153
interest and income fund of state institutions.....	1922
investment in farm mortgages and other securities.....	1928
permanent fund of state edu- cational institutions	
state industrial school, and deaf and dumb asylum— See Enabling Act, section 17, Constitution, article XI, section 12, and article XVII, section 1, and Or- dinance No. 1, 7th Sub- division	
secretary of state trust fund abolished	149, 150
transfer of.....	150
sheep inspection and indemnity.	3257
soldiers' home.....	1527
stock inspection and detective.	3257
stray stock.....	3331
teachers'	
certificate	1089
retirement salary.....	1113-1115
terminal elevator.....	1601
veterans' welfare commission..	5659
vocational education.....	1316, 1317
State, depositories of.....	182
quarterly report of.....	189
Transfer	
moneys in certain state funds authorized	198

FUNDS (Continued)

Transfer (continued)	
of county funds, when author- ized	4631
special accounts state institu- tions	271
Vocational rehabilitation.....	3045

FUNERAL EXPENSES

How paid	10307, 10310
----------------	--------------

FUNGICIDES

Regulation of sale of.....	2600- 2614
----------------------------	------------

FURNISHING BOARD, STATE

See also Purchasing Department, State	284- 293
Awarding contracts.....	259
Bond on bids for supplies.....	262
Classification of supplies.....	263
Composition of.....	254, 255
Contents of advertisement.....	258
Contracts	
advertising for.....	257
officers disqualified from interest to be approved by governor and treasurer	267
Duties of.....	264
Provide	
executive residence.....	256
rooms for state officers.....	129
Supplies for legislative assembly.	266
	265

FURNITURE

Amount of exempt.....	9427
-----------------------	------

FURS

May be lawfully possessed, how..	3704
----------------------------------	------

FURTHER ASSURANCE

Covenants for, run with land, when	7419
---	------

FUTURE ESTATES

In real property, how limited....	6729
-----------------------------------	------

FUTURE INTERESTS

In property—See Property..	6689- 6719
Liens on.....	8227

GALLATIN COUNTY

Boundaries and county seat.....	4320
---------------------------------	------

GALLATIN COUNTY PRESERVE

Creation of.....	3764
------------------	------

GALLON

Size of, for sale of food.....	2582
--------------------------------	------

GAMBLING

See also Lotteries.....	11149-11158
Abatement of buildings constitut- ing nuisances—See Intoxicat- ing Liquors.....	11123-11133
Authority to break and enter room, when.....	11168
Betting—See Racing Bets..	11180-11183
Brace and bunco games prohibited	11162
Confidence games, obtaining prop- erty by.....	11411
Destruction of apparatus, when..	11167

GENERAL INDEX.

GAMBLING (Continued)

Duty of public officers	
to make complaints.....	11169
to seize apparatus.....	11166
Enticing to place of.....	11143
Games prohibited, penalty.....	11159
In insurance prohibited.....	8082
Leasers of buildings treated as	
principals	11177
Losses recoverable in civil action	11173
actions brought by any person	
for use of loser.....	11174
compelling testimony.....	11176
pleadings, sufficiency.....	11175
Magistrate to retain apparatus for	
trial	11167
Maintaining apparatus a nuisance	11165
Mayors, duty to enforce law....	11170
Obtaining	
money by means of, is larceny..	11161
property by confidence game..	11411
Officers neglecting duty, forfeit-	
ure of office.....	11171
Ordinances in conflict with act	
void	11179
Possession of implements pro-	
hibited	11160
Receiving money to protect offen-	
ders prohibited.....	11172
Second offense, penalty for....	11164
Soliciting persons to visit resorts	
prohibited	11163
Witnesses immunity.....	11178

GAME AND FISH

Alien gun license	
confiscation of firearms.....	3710
creation of.....	3708
disposition of fines.....	3711
failure to procure.....	3709
unlawful possession of firearms	3709
Antelope, killing prohibited....	3719
Approval of bills.....	3672
Artificial	
lakes, regulation of fishing in..	3695
lights use in hunting prohibited	3694
Attorney-general legal adviser of	
commission	3675
Automobile, killing from, forbid-	
den	3694
Beaver	
license to trap.....	3722
regulation of trapping and kill-	
ing	3722
Biological department, fish and	
game commission.....	3653
Birds, song-birds, protection of..	3723
Blackleaf preserve	
creation	3773
penalty for violation of act....	3774
Brant	
limit on number.....	3703
open season for.....	3703
Buffalo, killing prohibited.....	3719
Caribou, killing prohibited.....	3719
Chinese pheasant, killing pro-	
hibited	3700
Clerk to fish and game warden..	3671

GAME AND FISH (Continued)

Closed counties for hunting elk..	3696
Closed districts	
how created.....	3676
penalty for fishing or hunting	
in	3676
posting of notice.....	3676
Closed season	
commission may declare.....	3653
defined	3681
Colleges may trap for scientific	
purposes	3760
Commission may open closed coun-	
ties to hunting.....	3702
Common carriers, violation of law	
by	3734
Compensation of commissioners..	3654
Compensation of persons issuing	
licenses	3707
Confiscated game and fish	
certificate of purchase.....	3727
disposition of proceeds.....	3728
notice of sale.....	3726
record of.....	3729
sale of.....	3726
Cost-bill	
in prosecutions, payment of....	3705
payment by county.....	3754
Curlew, killing forbidden.....	3700
Dams, use of, to take fish.....	3714
Deer	
destruction evidence of sex, mis-	
demeanor	3698
open season for.....	3697
regulation of killing.....	3697
Deputy fish and game wardens—	
See Fish and Game Warden..	
.....	3663
Destruction of nests and eggs..	3724
District court, jurisdiction of....	3756
Dogs	
chasing certain game with, pro-	
hibited	3720
use, when permitted.....	3694
Domestication of certain game	
prohibited	3721
Ducks	
limit on number.....	3703
open season for.....	3703
Dynamite, use of, forbidden.....	3717
Effect of partial invalidity of act	3680
Elk	
certain counties closed.....	3696
open season for.....	3696
penalty for violation of act....	3696
preserves for.....	3696
Evidence of lawful possession....	3738
Expenses, how paid.....	3672
Explosives, use of, forbidden....	3717
Fees for	
licenses—See subtitle licenses	
shipping permits.....	3736
Felony, punishment of.....	3706
Field trails, permission to run....	3694
Fines and penalties	
disposal of.....	3753
how collected.....	3753

GENERAL INDEX.

GAME AND FISH (Continued)

Fish	
hook and line only to be used..	3694
how may be caught.....	3714
limit of catch.....	3694
may be taken only by angling..	3694
penalty for violation of act...	3694
sale	
from artificial lakes, regula-	
tions governing.....	3695
of, prohibited, when.....	3713
spawn, sale of.....	3713
weight of catch.....	3694
Fish and game commission	
advertisement to bidders.....	3668
authority to control waters for	
propagation of fish.....	3667
bond	3651
buildings, duty to procure plans	
for	3668
closed season, authority to de-	
clare in certain districts....	3653
compensation	3654
contract	
how let by.....	3668
to whom let.....	3668
creation	3650
disposal of property by.....	3653
fish	
and game closed districts,	
how created.....	3676
ladders and ways, authority	
to compel installation of...	3653
game	
birds and animals, authority	
to import.....	3653
farms, power to conduct....	3653
general powers.....	3653
meetings	3652
membership	3651
penalty for violation of orders	
per diem of.....	3654
plans for buildings, authority	
to procure	3668
powers and duties.....	3653
publication of orders	
effect of.....	3678
how made.....	3677
qualifications	3651
quorum	3652
records	3652
refuges, power to establish....	3653
removal	3651
salaries and expenses, how paid	
term of office.....	3651
wild fowl, authority to propa-	
gate	3653
Fish and game warden	
appointment	3655
bond, payment of premium..	3660
clerical help, employment of..	3671
deputies	
appointment	
by	3656
how made.....	3657
under rules fish and game	
commission	3657
are deputy fire wardens.....	2777

GAME AND FISH (Continued)

Fish and game warden (continued)	
deputies (continued)	
bond, payment of premium..	3660
duties of.....	3656, 3659
search and seizure.....	3659
oath and bond of.....	3660
political activities prohibited	3658
powers of.....	3659
promotion and salary increase	3661
rating of.....	3661
removal of.....	3661
sheriffs and peace officers ex	
officio deputies.....	3663
traveling expense, limit on..	3661
duties	3655
employment special game war-	
dens	3656
expenses, limitation on.....	3655
oath	3660
political activity prohibited....	3658
powers of deputies.....	3659
qualifications	3655
removal from office, how.....	3655
reports of deputies to.....	3659
reports to commission by.....	3673
salary	3655
special deputy fish and game	
warden	
appointment and powers.....	3656, 3662
compensation	3656
state fire warden, ex officio....	2776
Fish hatcheries, superintendent of	
appointment and duties.....	3664
authority to	
purchase eggs.....	3666
use fish-traps.....	3666
bond	3664
duties and powers.....	3666
salary	3665
traveling expenses.....	3665
Fisher, open season for.....	3704
Fishing defined.....	3681
Fish-ponds, authority fish and	
game commission to control..	3667
notice to state land agent....	3667
procedure to control.....	3667
Fish-traps, use prohibited.....	3714
Fool hen, open season for.....	3701
Fox, open season for.....	3704
Free transportation of officials,	
when permitted.....	3755
Funds, state fish and game.....	3670
Fur-bearing animals	
defined	3681
open season for.....	3704
Furs, when lawfully possessed..	3704
Game animals defined.....	3681
Game birds	
enumerated	3700
limit of day's kill.....	3701
Game districts, power of commis-	
sion to open or close.....	3702
Game farms, license for.....	3777
Game fish defined.....	3681
Game preserves	
Beaverhead fish and game	3775, 3776
creation of.....	3761

GENERAL INDEX.

GAME AND FISH (Continued)

Game preserves (continued)	
Blackleaf game and bird..	3373, 3774
Flathead Lake bird.....	3768
Gallatin	3764
Highwood National Forest....	3766
penalty for violation of act....	3770
Powder River.....	3767
Pryor Mountain.....	3762
Snow Creek.....	3761
Snowy Mountain.....	3765
South Moccasin.....	3771
penalty for killing game in..	3772
Sun River.....	3763
Twin Buttes.....	3769
Geese	
limit on number.....	3703
open season for.....	3703
Grab-hooks, use of, prohibited..	3714
Grand juries to investigate.....	3756
Grouse, open season for.....	3701
Guides	
defined	3747, 3748
license to act.....	3745
packers and cooks as guides..	3748
penalty for acting without	
license	3746
responsibility for violation of	
law	3750
statement to game warden.....	3749
Hatcheries conducted by United	
States	3712
Hotels and merchants	
evidence of lawful possession of	3738
sale, when permitted.....	3737
Hungarian pheasant, killing for-	
bidden	3700
Hunger, when defense for killing	3758
Hunting on premises, when forbid-	
den	11481, 11482
Ice, fishing through, forbidden...	3694
Indians, when subject to law...	3756
Jurisdiction of offenses.....	3756
Killing from automobile pro-	
hibited	3694
Labeling packages.....	3733
Laws, publication of.....	3674
Licenses	
act, when effective.....	3682
alien	
fee for.....	3685
gun	3708-3711
alteration prohibited.....	3692
application for, contents of...	3684
artificial ponds, for fishing in..	3695
beaver	3722
blanks, preparation of.....	3688
bond of officers issuing.....	3684
breeding game.....	3777
carrying and exhibition re-	
quired	3689
classes of.....	3683
fees	
for	3685
of person issuing.....	3707
definitions	3681
disposal of fees.....	3687

GAME AND FISH (Continued)

Licenses (continued)	
exceptions from act.....	3691
fees	
disposal of.....	3687
for	3685
officers issuing.....	3707
form and contents of.....	3688
fund for destruction of preda-	
tory animals.....	3685
fur-bearing animals defined...	3681
game animals defined.....	3681
game fish defined.....	3681
guide	3745
how procured.....	3684
national parks and preserves ex-	
cepted	3685
nonresidents, of.....	3685
official receipt, contents of...	3686
penalty for	
false statements in applica-	
tion	3692
violation of act.....	3682
predatory animals defined...	3681
report of deputies.....	3693
required	3682
resident citizens defined.....	3685
scientific purposes.....	3760
seining license.....	3714
record of.....	3715
state	
fish and game fund.....	3687
office may issue.....	3684
temporary receipt in lieu of..	3686
return of, to game warden..	3686
termination of.....	3690
to fish and hunt required.....	3682
transfer prohibited.....	3692
United States biological survey	
fund	3685
who may issue.....	3684
Loon, killing forbidden.....	3700
Manner of taking regulated...	3694
Marten	
closed season for.....	3722
license for.....	3722
open season for.....	3704
Maxim silencers, use forbidden..	3694
Merchants, sale of game by, when	
permitted	3737
Moose, killing prohibited.....	3719
Motor-boats, use in hunting pro-	
hibited	3694
Mountain sheep and goat, closed	
season for.....	3699
Muffling devices, use of, forbidden	3694
Muskrat, open season for.....	3704
Nets and seines	
license and revocation....	3714, 3715
possession of, when unlawful..	3716
use of.....	3714
Notice on setting aside preserves	
and rest-grounds.....	3653
Number of fish in catch, limit on	3694
Open season	
defined	3681
enumeration of—See specific	
names of animals and birds	

GENERAL INDEX.

GAME AND FISH (Continued)

Orders of commission	
effect of.....	3678
how published.....	3677
Otter, open season for.....	3704
Partridge	
killing prohibited.....	3700
limit of bag.....	3701
open season for, in certain coun- ties	3701
Peace officers	
ex officio deputy fish and game wardens	3663
to institute actions.....	3756
Penalties for violation of	
act	3694, 3706, 3778
orders of commission.....	3679
Per diem of officers, how paid....	3672
Permits	
for shipping game.....	3731- 3736
for taking for scientific pur- poses	3760
Person defined.....	3681
Pheasant, Chinese and Hungarian killing prohibited.....	3700
open season for.....	3701
Poison, use of, in fishing pro- hibited	3714, 3717
Ponds	
sale of fish from, under certain regulations	3695
stocking of.....	3695
Possession of bodies as evidence.	3725
Prairie chicken, open season for.	3701
Predatory animals defined.....	3681
Preserves—See subtitle game pre- serves	
elk preserves enumerated.....	3696
existing preserves continued..	3676
Printing report of game warden..	3675
Protection and propagation by fish and game commission....	3653
Publication	
and distribution of laws.....	3674
orders of commission, how made	3677
Quail, killing prohibited.....	3700
Railroads, transportation of game —See subtitle, shipment of game	
Recommendations in report of commission	3673
Record of game, when to be kept	3739
Refuse from sawmills in streams	3718
Report of	
fish and game warden.....	3673
superintendent state fisheries..	3673
Rest-grounds for migratory birds	3653
Rules	
penalty for violation of.....	3679
publication of.....	3677
effect of.....	3678
Sable, open season for.....	3704
Sage grouse, open season for.....	3701
Sage hen, open season for.....	3701
Salaries, how paid.....	3672
Sale of	
catching certain game for, pro- hibited	3721

GAME AND FISH (Continued)

Sale of (continued)	
certificate of purchase.....	3727
confiscated game.....	3726
definition of terms.....	3741- 3743
disposition of proceeds from...	3728
fish or spawn prohibited, when	3713
penalty for violation of law...	3740
record to be kept.....	3739
transportation for, when unlaw- ful	3744
when prohibited.....	3737- 3742
Sawmill refuse.....	3718
Scientific purposes, license to take game for.....	3760
Search and seizure.....	3659
Seines and nets—See subtitle nets and seines	
Sex of deer, destruction of evi- dence of, penalty.....	3698
Sheep, closed season for.....	3699
Shipment of game	
labeling of packages.....	3733
penalty for violation of act by carriers	3734, 3735
permits for shipment.....	3731, 3732
fees for.....	3736
receiving game unlawfully taken	3735
when unlawful.....	3730
Silencers, use of forbidden.....	3759
Six-inch limit, law.....	3694
Snares, use forbidden.....	3694
Song-birds, killing prohibited....	3723
Spawn, sale of, when prohibited	3713
Special deputy fish and game warden, appointment and powers	3656, 3662
State fish and game fund, creation and use.....	3670, 3687
Stenographer to fish and game warden	3671
Stocking fish ponds, regulations governing	3695
Superintendent of fish hatcheries —See subtitle fish hatcheries	
Swan, killing prohibited.....	3700
Taxidermists	
license	3751
penalties	3752
reports of.....	3751
Transfer of funds to fish and game commission.....	3669
Transportation	
of property free, when.....	3755
when unlawful.....	3744
Trapping or catching big game prohibited	3721
Turtle dove, killing prohibited...	3700
United States	
biological survey, fund for use of	3685
may conduct hatcheries.....	3712
Use of certain devices forbidden	3694
Violations of laws of other states, report of.....	3757
Vouchers for expense, when re- quired	3672

GENERAL INDEX.

GAME AND FISH (Continued)

- Water fowl, open season for.... 3703
- Weight of fish, limit of catch.... 3694
- Wood duck, killing forbidden.... 3700

GAME AND FISH COMMISSION

- See Game and Fish subtitle fish and game commission

GAME AND FISH WARDEN,

- STATE—See Game and Fish, subtitle fish and game warden

GAME BIRDS

- Closed season for.....3700, 3701
- Limit of day's kill..... 3701

GAME PRESERVES

- See Game and Fish, subtitle game preserves . . . 3761- 3776

GARBAGE

- Dumping on or near highways 1739, 1740

GARFIELD COUNTY

- Boundaries and county seat..... 4321

GARNISHMENT

- See Attachments..... 9266- 9268

GAS

- See Oil and Gas.....3547- 3554
- Breaking or obstructing pipes, punishment . . . 11499
- Cities may regulate by ordinances 5040
- Labor and materialmen's lien on —See Liens.....8375- 8377
- Larceny of . . . 11385
- false devices for measure..... 11387
- Plugging wells required..... 3553
- penalty for violation of act.... 3554
- Release of oil and gas leases 6902- 6904
- Wasteful use of, prohibited 3550- 3552

GAS AND WATER COMPANIES

- Assessment of property..... 2018
- Mains and pipes are personal property . . . 2019

GASOLINE AND OILS

- Adulterated gasoline defined..... 4203
- Analysis by state chemist..... 4204
- Chemist, state appointment and duties..... 4200
- analysis by..... 4204
- as witness, mileage..... 4205
- assistant to, how appointed.... 4204
- Container to be marked..... 4196
- Distillates, regulation of manufacture of..... 4201
- Distributors' and dealers' license tax on gasoline—See Taxation . . . 2381- 2396
- Gasoline inspection fund..... 4208
- Kerosene standards..... 4199
- Misbranding defined..... 4206
- Misrepresentation of product.... 4202
- Oil inspector, state appointment and duties..... 4194
- deputy inspectors..... 4194
- duty of state board of examiners . . . 4195

GASOLINE AND OILS (Continued)

- Oil inspector, state (continued) expenses of..... 4194
- right of entry and inspection.. 4197
- resistance to, misdemeanor.. 4197
- supervision . . . 4195
- Oils and grease, sale under true name . . . 4196
- Penalty for violation of act.... 4207
- Sale of adulterated oils forbidden 4193
- Standard gasoline specifications.. 4198
- state board of examiners may modify . . . 4198
- Substitution of product forbidden 4202
- Witnesses and mileage..... 4205

GASOLINE PRODUCERS' AND DEALERS' LICENSE TAX

- See Taxation.....2381- 2396

GATES

- Leaving open, punishment for.... 11528

GEESSE

- Limit on number..... 3703
- Open season for..... 3703

GENERAL FUND

- Defined . . . 179
- Investment special funds in war-rants of..... 270
- Salaries payable from..... 442
- Transfer of certain bond funds to, authorized . . . 198
- certain special accounts to, authorized . . . 271

GIFTS

- As advancements, when....7082- 7084
- Causa mortis defined..... 6885
- when presumed..... 6886
- Cities and towns may take.... 5043
- how administered..... 5044
- Defined . . . 6882
- Effect of will upon gifts causa mortis . . . 6888
- when treated as legacy..... 6889
- Foreman soliciting, forbidden.... 11404
- In view of death defined..... 6885
- Not revocable, when..... 6884
- Presumed in view of death, when 6886
- Revocation in view of death.... 6887
- State institutions which may take persons who may give to..... 6978
- To state institutions, how made.. 851
- To subscribing witnesses to wills, effect of.....6986, 6987
- Verbal gifts, how made..... 6883

GIRLS

- Vocational school for—See Vocational School for Girls..12519-12546

GLACIER COUNTY

- Boundaries and county seat..... 4322

GLACIER NATIONAL PARK

- Description of boundaries..... 22
- Jurisdiction over..... 22
- Service of process in..... 22
- Taxation rights in, reserved..... 22

GENERAL INDEX.

GLANDERS

- Sale of horses with, prohibited... 11263
- animal to be killed..... 11264

GLASS

- Depositing in highway forbidden 1740

GOATS

- See Livestock.....3390- 3392
- Closed season for mountain goats 3699

GOLD-DUST

- How returned on execution..... 9424

GOLDEN VALLEY COUNTY

- Boundaries and county seat..... 4323

GOOD CHARACTER

- Evidence not admissible, when... 10670

GOOD CONSIDERATION

- See Contracts.....7503, 7504

GOOD FAITH

- To be observed by partners..... 7990
- Trustees bound to exercise..... 7883

GOOD MORALS

- Contracts against, prohibited.... 7553

GOOD ROADS DAY

- Designation and proclamation.... 1764

GOOD-WILL

- Definition 6813
- Of business constitutes property. 6664
- is transferable..... 6814
- Partnership business, partner has no authority to sell..... 7998
- Sale of..... 6814
- contracts restricting business of seller..... 7560
- Warranty on sale..... 7619

GOPHERS

- See also Tick-bearing Rodents... .. 2552- 2561
- Compensation of person appointed to exterminate..... 4497
- Charges against land for poisoning 4497
- entry on tax-roll..... 4497
- notice and appeal..... 4497
- Definition of..... 4500
- Expense of extermination tax against land
- appeals, how prosecuted..... 4497
- collection of tax..... 4497
- notice to property-owner..... 4497
- Extermination by county commissioners, procedure...4495, 4496
- Farm bureaus, duties of, concerning4495, 4496
- Gopher destruction fund..... 4498
- Notice to land-owners4495, 4496
- Poison
- purchasing and furnishing..... 4499
- supplying of..... 4495, 4496
- Tax against land.....4495, 4496

GOVERNOR

- Accounts to be kept by..... 126
- Acting, powers of..... 127
- Application for parole, how considered 12266
- Appointive officers, boards and commissions
- adjutant-general 1346
- arbitration and conciliation, board of..... 3052
- architectural examiners..... 3229
- charities and reforms, board of 325
- chiropractic examiners..... 3139
- commissioner of agriculture, labor and industry..... 3556
- commissioners of deeds..... 402
- custodian of records of G. A. R. 320
- custodian of state capitol..... 310
- dental examiners..... 3106
- education, state board of (appointive members)..... 831
- educational institutions, local executive boards of..... 842
- hail insurance board, appointive members 350
- health, state board of.....2444, 2445
- highway commission..... 1784
- industrial accident board, one member 2819
- livestock commission..... 3253
- local executive boards for state institutions 842
- medical examiners..... 3116
- national guard, officers..... 1332
- notaries public, appointment of. 385
- nurses, board of examiners of.. 3204
- optometry, board of examiners. 3157
- osteopathic examiners..... 3125
- parole commissioner..... 12516
- pharmacy, board of..... 3173
- private secretary..... 120
- salary 438
- register and deputy register of state lands.....1818, 1819
- secretary bureau of child and animal protection..... 337
- soldiers' home, managers of.... 1529
- state
- engineer 1954
- examiner 209
- forester 1830
- land agent 1824
- superintendent and assistant superintendent state insane asylum 1415
- terminal grain elevator, board of managers of..... 1592
- text-book commission..... 1187
- trustees historical library..... 1543
- veterans' welfare commission.. 5660
- veterinary medical examiners.. 3217
- warden of state prison..... 12438
- Appoints
- district judges on vacancy..... 8820
- justices of supreme court..... 8798
- Approval of
- bills84- 89
- contracts for state supplies.... 264

GENERAL INDEX.

GOVERNOR (Continued)

Arbor day proclamation by.....	3634
Bonds of state officers, approval of	469
Bringing armed men into state without permission of.....	11315
Certificates of election, issuance of	815- 828
Citizenship, power to restore.....	12263
Commander-in-chief of militia...	1332
Commissions by.....	426
form of.....	427
of election, issuance of.....	805
other	428
County boundaries, establishment, when.....	4300
Direct attorney-general to commence quo warranto.....	9578
Duties	
generally	124
to report pardons to legislative assembly	12259
Election proclamations, contents.	533, 534
Enactment of statutes, duties concerning—See also Statutes 84-	89
Executive residence.....	129
Fugitives from justice, duties concerning	124
Good roads day proclamation....	1764
Governor pro tem.....	127
Indorsement of bills by.....	84
Initiative and referendum proclamation	102
Insolvent bank, duties concerning	6078, 6079
Legislature, power to convene....	55
May	
commute sentence from penitentiary to industrial school	12507
declare county in state of insurrection, when.....	11666
revocation of proclamation, when	11667
demand delivery of fugitives from justice.....	12418
require	
judges to hold court, where.. . . .	8821- 8823
report from judge on application for pardon.....	12260
Member of boards	
Carey land act.....	1951
commissioners for the insane..	1413
education	830
equalization, state.....	113, 2122
examiners, state.....	116
farmers institutes, board of administration	1576
state	
board of land commissioners	1809
board of voting machine commissioners	757
prison commissioners....	117, 12434
Militia	
ordering out to	
aid execution of process....	11657
quell riots—See Riots..	11660-11667

GOVERNOR (Continued)

Militia (continued)	
powers concerning—See Militia	1330- 1383
Nominations must be in writing..	424
Nurses, issuance of licenses to..	3203
Pardons, powers concerning—See Pardons	12247-12266
Parole of prisoners, power to recommend	12264
Paroled prisoners still in legal custody	12265
Payment of reward, how made...	12417
Personal staff of.....	1348
Persons acting as, powers of.....	127
Power	
and duties generally.....	124
to	
grant respites.....	12262
quarantine against insect pests	3632
order out militia.....	1336, 1337
President state board land commissioners	1810
Private secretary	
appointment	120
duties	121
Publication of treasurer's report.	187
Records to be kept by.....	126
Reports, power to require.....	124
Resignation, to whom made.....	510
Rewards	
for arrest fugitive from industrial school.....	12512
for fugitive from justice, power to offer.....	12415
power to offer.....	124
Salary	128
of stenographer.....	440
Senate resolution of concurrence	425
Standing reward, when offered...	12416
Supervisory powers.....	124
Suspension of death sentence by.	12094
Transmission of appointments to legislature	125
Vacancies	
authority to fill, when.....	124, 514
during recess of legislature....	515
in certain state offices.....	516
in United States senate.....	825

GRADE CROSSINGS

See Railroads.....	6625- 6636
--------------------	------------

GRAIN

See Agriculture, Labor and Industry, Department of.....	3573- 3592
See also Trade Commission for Regulation of Public Mills.. . . .	3914- 3946
Cooperage of box-cars for shipment—See Railroads....	6613- 6619
Elevators, location on right-of-way of railroads—See Railroads	6638- 6644
Extermination of insect pests	4501- 4505
Hail insurance, lien on—See Liens	8363- 8365
Mortgage on growing crop.....	8290

GENERAL INDEX.

GRAIN (Continued)

Penalty for burning.....	11476
Penalty for injuring standing crops	11483
Seed-grain lien—See Liens..	8359- 8362
Threshermen's liens—See Liens..	8366- 8374

GRAIN ELEVATOR, STATE TERMINAL

See Terminal Grain Elevator, State	1583- 1602
--	------------

GRAIN INSPECTION LABORATORY, STATE

Assistants, employment of.....	907
Bulletin to be published.....	905
Establishment	902
of grades and dockage.....	911
Fees	
disposal and annual report of..	912
for making tests, when.....	908
Laboratory	
director in charge.....	906
supervision and control.....	906
Official name.....	903
Purpose of.....	904
Record of sample submitted....	904
Reports of tests and annual reports	910
Samples may be sent for test....	905
establishment of grades and dockage	909
report of results, publication...	905
who may send.....	911
Tests to determine grade and dockage	909

GRAIN STANDARDS AND MARKETING

Control by department of agricultural labor and industry—See Agriculture, Labor and Industry, Department of.....	3573- 3592
--	------------

GRAND AND PETIT LARCENY

See Larceny.....	11370-11374
------------------	-------------

GRAND ARMY OF THE REPUBLIC

Custody of records.....	320- 324
-------------------------	----------

GRAND JURY

Access to public prison and records	11828
Acting after challenge allowed, forbidden	10942
Advice, when and from whom to be received.....	11829
Bail, indorsement of.....	11840
Challenges	
effect of allowing to panel.....	11813
how made and tried.....	11811
to	
decision upon.....	11812
individuals cause for.....	11810
individuals, effect of allowing	11814, 11815
panel, cause for.....	11809
who may file.....	11808

GRAND JURY (Continued)

Charge of court.....	11818
Contempt, juror acting after challenge allowed.....	11815
Defined	8885
Degree of evidence to warrant indictment	11825
Discharged, when.....	11819
Disclosing facts transpiring before	10947
of finding indictment.....	10946
Dismissal of charge, effect of....	11835
District judge to order.....	11806
Drawn and summoned, when....	11806
Duty of juror to declare knowledge of public offense.....	11826
Duty respecting fish and game laws	3756
Duty to examine books of county officers	11832
to employ expert, when.....	11832
Duty to weigh evidence.....	11824
Evidence receivable before.....	11823
Examination books of county officers	11832
Experts, power to employ.....	11832
Foreman	
appointment of.....	11816
to administer oaths to witnesses	11822
How constituted.....	8819
How drawn.....	8918
Indictment	
effect of dismissal of charge...	11835
form of.....	11844
how found.....	11833
how presented and filed.....	11837
indorsed, how.....	11838
indorsement of bail, how.....	11840
names of witnesses, where inserted	11836
not to be quashed, when.....	11836
signed by whom.....	11838
warrant to issue, when.....	11839
Inquire into cases of person imprisoned	11827
Inquiry as to official misconduct.	11827
Inspection of prisons.....	11827
Jails, duty to examine.....	11827
Jurors	
acting after challenge allowed.	10942
not to be questioned for conduct	11831
not to disclose filing of indictment	11867
Manner of impaneling.....	8920
May cause process to issue.....	11824
Names of witnesses inserted on indictment	11836
Not bound to hear evidence for defendant	11824
Number necessary to find indictment	11807
Number of	11807
Number of members.....	8919
Oath, form of.....	11817
Powers and duties.....	11821
Procedure when true bill not found	11834

GENERAL INDEX.

GRAND JURY (Continued)

Public persons and records, access to	11828
Resubmission of cause	11994
Retirement	11819
Secrets to be kept	11830
Special jury, when and how summoned	11820
Testimony of witnesses, when to be disclosed	11830
True bill, how found	11833
proceedings when not found	11834
When and how impaneled	8918
Where two or more judges	8921
Who may be present during session	11829

GRAND LARCENY

See Larceny	11370-11374
-----------------------	-------------

GRANITE COUNTY

Boundaries and county seat	4324
--------------------------------------	------

GRANTS

See also Conveyances—Deeds—Transfers	
After-acquired title passes	6867
Attorney in fact, executes, how	6863
Attornment of tenant, when unnecessary	6872
Boundary by highway passes what	6873
By married women to be acknowledged	6861
By owner for life or for years	6869
Change of name of former owner	6864
Conclusiveness on grantor and others	6868
Conveyances by owner for life or for years	6869
Corporate power subject to repeal	5997
Defined	6842
Delivery in escrow	6846
Delivery to grantee is absolute	6845
Delivery, when deemed constructive	6848
Easements pass with property	6865
Effective on delivery	6843
Encumbrances embrace what	6875
Fee simple presumed to pass, when	6866
Form of grant of real estate	6860
Heirs and issue, meaning in certain remainders	6854
How far conclusive on purchaser	6868
How interpreted	6849
Incidents	6857
Implied covenants in grant	6874
Interpretation against grantor	6852
Irreconcilable provisions, how construed	6853
Limitations, how controlled	6850
Lineal and collateral warranties abolished	6876
May inure to benefit of stranger	6858
On conditions precedent	6871
On conditions subsequent	6870

GRANTS (Continued)

Power of attorney by married woman acknowledged	6862
Presumed delivered at date	6844
Real property, how transferred	6859
Recitals, when resorted to	6851
Recording of—See Recording Conveyances	
Redelivery to grantor, effect	6847
Subsequently-acquired title passes	6867
What title passes	6856
When in favor of grantee	6852
Words of inheritance unnecessary	6855

GRASS

Setting fire to, negligently	11506
--	-------

GRASSHOPPERS

Extermination of, by counties—See Insect Pests	4501- 4505
--	------------

GRAVES

See Sepulture	11032-11038
-------------------------	-------------

GRAVEYARDS—See Cemeteries

GRAYLING

Game fish	3681
---------------------	------

GREASE

See Gasoline and Oils	4193- 4208
---------------------------------	------------

GREAT SEAL OF STATE

Form	526
----------------	-----

GROUND SQUIRREL—See Gopher

GROUSE

Certain counties closed until 1923	3701
Limit of bag	3701
Open season for	3701

GROWING CROPS

Lien on—See Liens 8359-8365, 8366-8374	
Mortgage on—See Chattel Mortgages	8290

GUARANTY

See also Suretyship	
See also Warranty	
Accepted how	8176
Alteration exonerates guarantor, when	8188
Consideration necessary, when	8173
Construed as unconditional, when	8181
Continuing guaranty defined	8186
revoked, how	8187
Defined	8171
Delay of creditor to act, effect of	8192
Discharge of principal, effect	8194
Extent of obligation of guarantor	8184
Guarantor exonerated, when	8188
Guarantor indemnified by debtor not exonerated	8193
Guarantor not liable on illegal contract	8185
Knowledge of principal not necessary	8172
Liability on guaranty of conditional obligation	8183

GENERAL INDEX.

GUARANTY (Continued)

Liability on guaranty of payment	8182
Must be in writing, when.....	8174
Need not be in writing, when....	8175
No liability on illegal contract, when	8185
Notice of acceptance necessary, when	8176
Obligation of guarantor not to ex- ceed that of principal.....	8184
Of incomplete contract, construc- tion	8177
Part performance, effect on guar- antor	8191
Release of guarantor when a joint debtor	7466
Rescission of alteration, effect...	8190
That objection is good, imports what	8178
liability on.....	8180
recovery on.....	8179
Void promises, effect on.....	8189
When deemed original obligation of promisor.....	8175
Writing when necessary.....	8174

GUARDIAN AD LITEM

Appointment under seal.....	8861
How appointed.....	9072
In action for dower.....	10162
In justices' courts, appointment..	9630
Parties to actions.....	9071, 9072
When appointed	9071

GUARDIAN AND WARD

See also Guardianship	
Guardian	
appointment by	
court, how superseded.....	5887
court, when.....	5875, 5876
parent, when.....	5873
parent, when superseded....	5886
consent of, when necessary to marriage	5712
death of joint guardian, sur- vivorship	5884
defined	5868
discharge of.....	5889
duties of guardian of person..	5880
of estate.....	5881
general guardian defined.....	5871
jurisdiction of court exclusive.	5877
kinds of.....	5870
must conduct suits for minors..	5687
of property within state.....	5876
powerless except when ap- pointed	5874
powers on appointment.....	5879
removal of, causes for.....	5885
special guardian defined.....	5872
under direction of court.....	5883
Relations confidential.....	5882
Rules for awarding custody of minors	5878
Settlement of accounts with ward	5888
Ward defined	5869
Ward, releases by.....	5888

GUARDIANSHIP

See Guardian and Ward	
Advancements, credit for, al- lowed, when.....	10420
Allowance of accounts to joint guardians	10424
settlement of.....	10423
Bond of guardian	
court may require new bond, when	10458
filing and action on.....	10459
limitation of action.....	10460
Compensation of guardians.....	10425
Compromise of debts.....	10418
Court may direct payment for maintenance of ward, when..	10420
Debts, duty of guardian to pay and recover.....	10417, 10418
Education of ward duty of guard- ian	10420
Examination of persons suspected of defrauding wards.....	10455
Expenses and compensation of guardians	10425
Guardians	
action against, for waste.....	9475
appointment under seal.....	8861
assessment of property to....	2012
cannot buy on partition sales..	9554
conversion, larceny.....	11382
credit for advancement, when and how allowed.....	10420
disposing of wards for mendi- cant purposes.....	11021
failure to file reports.....	10918
penalty	10918
may	
assent to partition of real es- tate	10421
mortgage property, when....	10426
sell real estate, when.....	10419
sue for death or seduction of ward	9074, 9075
power to correct ward.....	10980
removal for contempt.....	10373
to	
manage estate, how.....	10419
pay debts of ward, how.....	10417
recover debts due ward.....	10418
return inventory and ap- praisement	10422
unlawful to permit ward to use firearms	11565
How terminated.....	10457
Inventory and appraisement, when and how returned.....	10422
Leases of ward's property, how authorized	10426
Limit of extraterritorial author- ity	10563
Limitation of action for recov- ery of property.....	10461
on guardian's bond.....	10460
Maintenance of ward.....	10419
Mortgage of ward's property	
how authorized.....	10426
procedure applicable.....	10427
procedure to obtain.....	10427

GENERAL INDEX.

GUARDIANSHIP (Continued)

New bond, when required.....	10458
Of insane and incompetent persons	
appointment of guardians, when and how.....	10412
bond of guardian.....	10414
citation to insane person.....	10412
court to appoint after hearing	10413
petition for restoration to capacity, procedure.....	10415
discharge on restoration.....	10415
powers and duties of guardians	10414
sale of dower of insane married woman.....	10416
title to real estate, how transferred	10416
Of minors	
appointment by judge, when...	10401
bond of guardians, conditions of	10408
father or mother entitled to, when	10405
judge may nominate after minor fourteen, when.....	10403
maintenance out of income of property, when.....	10409
married women eligible.....	10405
minor may nominate, when....	10402-10404
parents entitled to guardianship, when.....	10405
powers and duties of guardian.	10407, 10408
when no father or mother...	10406
powers of courts not affected..	10411
testamentary guardian, bond and powers of.....	10410
Of nonresident persons	
appointment of guardian, when and how.....	10444
bond of guardian.....	10446
extent of guardianship.....	10447
guardian may execute power of attorney	10453
order of confirmation of sale...	10452
effect as discharge of person in possession.....	10454
powers and duties of guardians	10445
removal of nonresident ward's property	10448
proceedings on removal.....	10449
sale or removal of property, when ordered.....	10449
appraisal prior to.....	10450
how conducted.....	10450
report of.....	10451
sales	
execution of deed.....	10452
report and confirmation	10451, 10452
Orders, entry at chambers.....	10463
Partition of estate, guardian may assent to.....	10421
Powers of judge in chambers...	10463
Provisions of certain sections applicable	10464
Removal of guardians, when.....	10456

GUARDIANSHIP (Continued)

Resignation of guardians, when..	10456
Sales of property of ward	
authorized, when.....	10428
bond on sale.....	10439
conditions of sales of real estate	10442
costs to be awarded, how.....	10437
court may order investment of money, when.....	10443
guardian	
may sell real estate to support ward	10419
to obtain order of court....	10429
hearing	
examination of witnesses....	10436
of application.....	10435
limit of order of sale.....	10441
notes and mortgage, when taken	10442
notice to next of kin, how given	10433
order	
for sale, how obtained.....	10432
of sale to specify what.....	10438
to show cause, service and publication	10434
proceedings to conform to probate rules	10440
proceeds of sale, how applied..	10430, 10431
Settlement of accounts of guardians	10423
Service on guardians sufficient, when	10374
Share of ward in partition sales paid to.....	9564, 9565
Surrender of estate by guardians, when	10456
Terminated, how.....	10457

GUARDIANSHIP OF MINORS

See Guardianship.....10401-10411

GUARDS

Hours of labor for prison guards 12441

GUESTS—See Hotels

GUIDE-BOARDS

See Highways.....1715- 1720

Erection by highway commission.1793, 1794

GUIDE-BOARDS AND MILE-STONES

Malicious injury to..... 11465

GUIDES

See Game and Fish.....3745- 3750

GUILTY

Form of plea.....	11908
verdict	12020
Issue in prosecution for bastardy	12272
Plea of.....	11907
court to determine degree.....	12056
how put in.....	11909
in justices' courts, procedure..	12305, 12326
withdrawal.....	11909

GENERAL INDEX.

GUNPOWDER

See Explosives.....2786- 2815

GUNS—See Firearms

GYPSUM PLASTER

License tax of producers and
dealers—See Taxation..2356- 2380

HABEAS CORPUS

Application for, how made..... 12349
Arrest after discharge, when.... 12371
Bail
 judge may take..... 12366
 when allowed upon..... 12148
 writ for purpose of, when.... 12365
Body
 production, when dispensed with 12357
 to be produced, when..... 12356
By whom granted..... 12350
Clerk of court to issue..... 12378
Complainant, party prosecuting.. 12429
Concealing person entitled to.... 11217
Contents of writ..... 12352
Court
 to discharge party, when..... 12360
 to remand party, when...12361, 12367
Damages for failure to issue or
 obey writ..... 12380
Defect in writ, immaterial, when 12370
 not to be discharged for..12363, 12364
Defective warrant, proceedings on 12364
Directed to whom..... 12352
Discharge in certain cases..... 12362
Disobedience to writ
 proceedings upon..... 12354
 sheriff or coroner to arrest... 12354
Disposition of party pending re-
 turn 12369
District courts may issue, when.. 12350
District judge may issue and de-
 termine at chambers..... 8867
For purposes of bail..... 12365
Grounds of discharge for defect in
 form of warrant..... 12363
Grounds of discharge, generally.. 12362
Granted without delay..... 12351
Hearing
 on return, when..... 12358
 proceedings on..... 12359
 without production of body,
 when 12357
Imprisonment after discharge,
 when permitted..... 12371
Judge
 may commit to legal custody,
 when 12368
 may take bail..... 12366
 to remand on return, when.... 12367
Justice of supreme court, power to
 issue 8806- 8866
May be issued and served on non-
 judicial days..... 8850
Must be granted without delay.. 12351
Officers not to charge fees..... 4893
Penalty
 for refusal to obey writ..... 11215
 reconfining person discharged on 11216

HABEAS CORPUS (Continued)

Return
 contents of..... 12355
 time for..... 12378
 where 12379
Seal on writ..... 12378
Service, how made..... 12353
Supreme court may issue, when
 8803, 12350
Time for issuance and service.... 12377
To whom returnable..... 12350
Warrant
 how executed..... 12374
 may be issued instead of writ,
 when 12372
 may include person charged
 with what..... 12373
 return and hearing on..... 12375
 party may be discharged or
 remanded 12376
Who may presecute writ..... 12348
Witnesses, court may compel at-
 tendance 12359
Writs
 by whom issued..... 12378
 for purpose of bail..... 12365
 may issue at any time..... 12377
 when returnable..... 12378
 where returnable..... 12379

HABITUAL DRUNKARD

Is person of unsound mind..... 5676

HABITUAL INTEMPERANCE

Cause for divorce..... 5736
Defined 5748

HACKMEN

Exemptions 9428

HAIL INSURANCE

See Insurance Corporations..6170- 6184
Liens for—See Liens.....8363- 8365

HAIL INSURANCE, STATE

BOARD OF

Application for insurance..... 350
Annual tax-levy..... 351
Appointive officers, per diem and
 expenses 363
Appraisers, appointment and
 qualifications 359
Borrowing money, when author-
 ized 361
Chairman
 appointment 350
 salary and per diem.....351, 363
Compensation of appointive offi-
 cers 363
County assessor to explain plan.. 356
Creation 350
Destruction of crops, withdrawal
 of 353
Election of benefits of act..... 362
Explanation of act to taxpayers.. 356
Forms to be provided, preparation
 of 350
Fund, investment surplus..... 361

GENERAL INDEX.

HAIL INSURANCE, STATE

BOARD OF (Continued)

Insurance on lands when taxes delinquent	350
Levy of tax to provide insurance collection of	351
object of, reserve fund	354
Losses	
appraisement in case of dissatisfaction	352
appraisers to investigate	360
qualification of	359
how paid	359
reporting to board	361
warrant	358
Meetings	361
No extra pay allowed public officers	350
Payment of losses	
how made	363
warrant	361
Powers	350
Rates for insurance	361
Reappraisement	351
Receipts for insurance	360
Reserve fund	354
Rules	352
governing levy	352
Salary, chairman and officers	352
State hail insurance fund, creation of	363
Tax	355
levy authorized	351
annual estimate	351
board may fix rates	351
limitation on	351
notice of rates	351
Taxpayers may consent to provisions of act	351
Transfer of moneys by	350
Warrants	
interest on	355
payment from hail insurance administrative fund	355
registration of	355
What	
crops subject to act	357
persons subject to act	362
Withdrawal of destroyed crops from levy	353

HALF BUSHEL

Unit of measurement 4221, 4222

HALF-BLOOD

Kindred inherit, how 7081

HANDWRITING

How proved	10591-10593
experts on	10524-10531
Proof of, on probate of will	10035
To prove execution of instruments, when	6923
facts established by	6924

HANGING

Execution by 12093

HARD LABOR

Sentence to, when imposed 12092

HAY

Legal measurement, what constitutes	4228
Method of measuring in stack	4228
Number of pounds in ton	4226
Penalty	
for false weights	11431
for malicious burning	11476
Standard grades established	4229
penalty for violation of act	4231
rules for inspection at market destination	4232
unlawful to sell not standard	4230

HEAD OF FAMILY

Defined	9428
in homestead law	6969
Husband is	5783

HEADLIGHTS

Of locomotives, regulation of . 6609, 6610

HEALTH

See also Contagious Diseases	
See also Disease	
Neglect to perform duties under	11237
Wilful violation of laws, punishment	11236

HEALTH, COUNTY BOARDS OF

Abatement of nuisances by	2469
County health officer	
appointment and duties	2473-2476
failure to perform duties	2477
state board of health may appoint, when	2474
Creation	2473
Diseased prisoners, removal of	2482
Duties of	2475
Expenses, liability of county and city	2470
Isolation hospitals	
establishment by	2469
for treatment venereal diseases	2567
Penalty for disobedience of rules of	2475
Powers	
generally	2469
with reference to contagious diseases, isolation hospitals and quarantine	2469
Quarantine by	2469
Reports of	2476

HEALTH INSURANCE

See Insurance 8158-8162

HEALTH, LOCAL BOARDS OF

Abatement of nuisances by	2469
Appointment in cities	2464
Expenses, liability of county and city	2470
In incorporated cities and towns	
Isolation hospitals, establishment by	2464
by	2469

GENERAL INDEX.

HEALTH, LOCAL BOARDS OF

(Continued)

Local health officer	
duties of.....	2467
salary	2465
Meetings	2466
Penalty for noncompliance with orders of.....	2468
Powers	
of	2464-2469
with reference to diseases, hospitals and quarantine.....	2469
Quarantine by.....	2469
State board of health may appoint, when.....	2464

HEALTH OFFICERS

Diseased prisoners, removal of...	2482
order of removal, return.....	2483
Duty	
concerning pure food and drug act	2591
of	
householder to notify of diseases	2478
physicians to report.....	2479
public officers to assist.....	2471
to	
assist livestock sanitary board	3284
file complaints.....	2480
Inspection of shoddy materials..	2617
Interference with, penalty for...	2472
Seizure of unsanitary food, disposal of.....	2586

HEALTH, STATE BOARD OF

Adulterated and misbranded foods and drugs, duties concerning.	2463
Appointment, qualifications and term	2445
Biennial reports concerning public water supply.....	2656
Bond of secretary.....	464
Bonds for erection of building for—See Bonds.....	5590-5605
Child welfare division	
county nurses, employment of.	2506
creation	2503
duties	2504
employment officers.....	2509
Montana orthopedic commission	
appropriation	2511
bills, how paid.....	2514
compensation	2512
creation	2512
duties	2513
investigation, employment and salary	2513
special order for care of patients	2514
noninterference with religious beliefs	2510
nurses, regulation of.....	2507
report blanks, distribution by..	2508
school nurse, employment of..	2505
Churches, inspection by.....	2453
Claims, how paid, limit on.....	2451
Communicable diseases defined...	2457
Compensation	2451

HEALTH, STATE BOARD OF

(Continued)

Contagious diseases, restriction concerning	2455
Control of public water supply—See Public Water Supply 2641-	2657
Corporations to furnish information	2452
Diseased prisoners.....	2482
Disposal of fines.....	2495, 2496
Duties and powers.....	2448
Entomology, state board of—See Entomology, State Board of	2543-2561
Epidemiologist, appointment, qualifications and duties.....	2540-2542
Hotels, powers over.....	2491
Inspection of churches and school-houses	2453
Inspectors of hotels	
appointment	2492
certificates of.....	2493
complaints by.....	2494
notice	2494
Lepers, disposal of.....	2461
Licenses to	
certain establishments not required, when.....	3283
certain purveyors of food and drinks	2589
under pure food and drug act, to whom issued.....	2589
Meetings and quorum.....	2449
Opium, duty to enforce acts concerning	3193
Penalty for violation of rules...	2460
Police officers to assist.....	2471
Pollution of waters and streets forbidden	2484
Powers and duties.....	2448
Prohibiting dead animals, where	2484
Public buildings	
declared nuisance, when.....	2454
action to obey.....	2454
inspection of.....	2453
Public water supply, control of—See Public Water Supply. 2641-	2657
Pure food and drug act, powers and duties concerning.....	2591
Quarantine measures.....	2458
Registration of births and deaths—See Vital Statistics, State Bureau of.....	2515-2539
Reports of.....	2448
Reports to, by cemetery associations	6477
Rules and regulations.....	2450
penalty for violation of.....	2450
Salary of secretary and employees	440
School-houses	
inspection of.....	2453
plans, duty to approve and finish	1174-1180
Secretary	
appointment, qualifications and salary	2446
authority to act in emergency cases	2459
duties	2447

GENERAL INDEX.

HEALTH, STATE BOARD OF

(Continued)

Secretary (continued)	
may act in emergency cases....	2459
office room for.....	2449
registrar of vital statistics....	2515
Sewer systems to be approved by.	2462
appeals from orders.....	2462
Special meetings, how called.....	2449
Term of.....	2445
Transportation of dead bodies...	2456
Travelers, restrictions concerning	2455
Traveling expenses.....	2451
Undertakers, license of.....	2456
Vacancies	2445
Vaccination, power to order.....	2481
Veneral diseases, control of—See	
Veneral Diseases.....	2562- 2577
Vital statistics—See Vital Statis-	
tics, State Bureau of....	2515- 2539
Wall-paper, regulation of use in	
tenement-houses	2499- 2502
Water supply, regulation of—See	
Public Water Supply....	2641- 2657

HEAP MEASURE

Regulation of.....	4223, 4224
--------------------	------------

HEARSAY

Evidence forbidden.....	10506
-------------------------	-------

HEIRS

See also Probate Proceedings	
See also Succession.....	7071- 7092
Determination of heirship, pro-	
cedure	10324, 10326, 10327
Fraudulent pretenses relative to	
birth of.....	10934
Meaning in certain remainders..	6854
Tenant for life to take as pur-	
chaser, when.....	6741
When property must be turned	
over to.....	10139

HEMP

Pounds in bushel.....	4226
-----------------------	------

HERD DISTRICTS

See Livestock.....	3384- 3389
--------------------	------------

HERDERS

Abandonment of sheep by.....	11550
Driving stock over lands forbid-	
den	11225
Lien of.....	8383

HERETOFORE AND HEREAFTER

Meaning in Civil Code.....	8782
----------------------------	------

HIDES

Animals killed by railroads, dis-	
posal of.....	6548
Preservation on slaughtering of	
cattle—See Livestock...3346-	3350

HIGH SCHOOLS

See Schools, Public.....	1262- 1293
--------------------------	------------

HIGHWAY COMMISSION, STATE

Accounting system to be provided	1800
Accounts and expenditures, how	
paid	1800

HIGHWAY COMMISSION, STATE

(Continued)

Appointment and removal of mem-	
bers	1784
Assistant highway commissioner,	
appointment, salary and term	1783
Authority to contract with United	
States	1791
Bond of	
chief engineer.....	464
commissioner and assistants.464,	1783
contractor	1790
principal assistants.....	464
Certification of accounts.....	1800
Commissioner	
appointment, term and salary..	1783
bond	464, 1783
consultation by county officers.	1786
county commissioners to furnish	
information to.....	1787
duties of.....	1785
duty to	
furnish information.....	1786
prescribe rules.....	1788
engineer	
bond and duties of.....	1784
duty to appoint.....	1784
methods of road construction,	
investigation of.....	1786
monthly reports.....	1785
office of.....	1785
report of.....	1785
road supervisors to furnish in-	
formation to.....	1787
statistics, compilation of.....	1785
Contracts, how awarded.....	1790
Convict labor permitted.....	1790
County commissioners may convey	
rights-of-way	1795
Creation	1783
Day labor permitted.....	1790
Designation of state highways...	1788
Division of maintenance and con-	
trol	1792
Eminent domain, right to exercise	
attorney-general to procure...	1797
Engineer, appointment, bond and	
duty	1784
Establishment of.....	1783
Existing contracts not invalidated	1801
Federal aid law, procedure for	
compliance with.....	1788
Federal aid road act, assent to...	1791
Force account permitted.....	1790
Funds, establishment of.....	1799
Guide-boards	
defacing, penalty for.....	1794
duty to erect.....	1793
unlawful to display other signs.	1793
Marking roads.....	1793
Meetings of commission.....	1784
Members, appointment of.....	1784
Office and field help	
employment of.....	1789
payment of.....	1789
Official road-map, preparation of	
alterations to be entered.....	1796
filing with county clerk.....	1796
Payment of claims.....	1800

GENERAL INDEX.

HIGHWAY COMMISSION, STATE

(Continued)

Prosecutions, authority concerning	1798
Reports of commissioner.....	1785
Road-map, preparation of.....	1796
Salary of commissioner and assistants	1783
Standard guides to be erected...	1793
State highway fund, creation and use	1799
trust fund, creation and use....	1799
State treasurer may receive United States warrants.....	1800
Statistics, compilation of.....	1786
Transfer of property by present commission	1802

HIGHWAY FUND

Creation and use.....	1799
Trust fund.....	1799

HIGHWAYS

Abandonment of, how.....	1614
Alteration—See subtitle establishment, alteration and vacation of highways	
As boundaries.....	10683
Automobile regulations—See Automobiles	
Bonds, issuance and limit of indebtedness	1618
Boundary of grants by, passes what	6873
Bridges, public	
bids and letting contracts.....	1706
bonds for.....	1711
cities and towns to maintain, when	1709
construction	
across Kootenai river...1803,	1804
and repair over two hundred dollars	1705
of act as respects cities....	1714
control by county commissioners	1713
county	
bridges defined.....	1652
to construct in cities, when..	1707
district bridges defined.....	1652
election to determine construction	1711
maintenance	1703
when crossing county lines...	1712
spécial	
bridge tax, levy and collection	1704
tax for.....	1710
speed limit to be posted on...	1736
suburban railways to pay for use, when.....	1708
Change of on petition of freeholders	1650
Common	1613
Contract construction work, inspection of.....	1632
County	
clerk to enter proceedings in minutes	1621
commissioners, power and duties concerning	1622-1634
superintendent of roads and bridges	1653

HIGHWAYS (Continued)

Crops, opening highway through..	1644
Crossing of railroads, canals and ditches	1647
Crushed rock, purchase of.....	1623
Culverts, corrugated iron	
analysis, penalty for failure to file	1722
conditions of sale.....	1721
county attorneys to prosecute violations	1725
penalty for inferior deliveries	1724
secretary of state to keep analyses	1723
Damages for injuring trees on...	9476, 9477
Damages for opening or change of—See subtitle establishment, alteration and vacation	
Defined	1611
Docks and wharves—See Docks and Wharves.....1605-	1609
Drains and ditches	
construction by road supervisor	1630
damages, adjustment of.....	1630
penalty for obstruction.....	1630
Electric signaling devices at railroad crossings.....3842-	3846
Encroachments upon	
action to remove or abate.....	1730
costs and damages on.....	1730
by fences and buildings, removal county attorney to prosecute...	1727
depositing glass or other articles on.....	1740
dumping garbage or dead animals near.....	1739
duty of person finding obstruction	1734
excavation of ditches across, permits for.....	1733
falling trees on.....	1735
malicious injury to trees, etc., on	1737
notice to remove.....	1728
penalty for.....	1729
damaging sidewalk by teams.	1726
obstructing	1738
permitting water to overflow...	1732
removal at owner's expense, penalty	1731
sidewalk, construction of.....	1726
Establishment, alteration and vacation of	
advertisement of contract.....	1645
awards	
how payable.....	1642
of damages.....	1641
changing highways to run on section lines, procedure.....	1650
condemnation of right-of-way, procedure	1641
contents of petition.....	1636
contract, how let.....	1645
county clerk to notify supervisor of opening.....	1645
crossing of railroads, canals and ditches	1647

GENERAL INDEX.

HIGHWAYS (Continued)

Establishment, alteration and vacation of (continued)	
damages, how determined on opening	1640
acceptance and rejection of award	1641
deeds and judgments to be recorded	1646
defects not to invalidate	1651
finding as to damages on opening	1639
funds from which expenses payable	1642
how abandoned or vacated	1614
investigations by board	1637
minute entry of actions	1638
no damages awarded for what ..	1647
notice to	
district supervisor	1645
interested parties	1638
opening	1639
through growing crops, when ..	1644
petitions by freeholders for	1635, 1650
record, plat and report	1643
recording deeds and judgments.	1646
removal of fences	1648
section lines, highways to follow, when	1649, 1650
survey and plat	1639
to follow subdivision or section lines, when	1649
validity not affected by what ..	1651
viewing proposed change	1638
work	
advertising for bids for	1645
board may reject bids	1645
undertaking on	1645
when let by contracts	1645
Extent of boundaries by	6772
Fees for inspection by county commissioners	1632
Fences, removal of, notice	1648
Ferries—See Ferries	1766-1782
Garbage, dumping on, forbidden ..	1739, 1740
General road tax	1617
Glass, depositing on, forbidden ..	1740
Good roads day	1764
Growing crops, opening through.	1644
Guide-boards	
advertising signs on, forbidden	1719
associations to submit emblems.	1793
county commissioners may remove	1719
defacing, penalty for	1794
erection	
and maintenance	1715
by highway commission	1793
highway commission to control	
advertising on	1793
misleading sign forbidden	1719
penalty for	
injury to	1717, 1718
violation of act	1720
property of county	1718
size and fastening	1716
unlawful to display other signs.	1793

HIGHWAYS (Continued)

Highway commission, state—See Highway Commission, State ..	1785-1802
Highways include what	1611
Inspection of construction work	
on highways and bridges	1632
compensation for	1632
county commissioners may designate by whom	1632
emergency clause	1633
minute entry of inspection, when	1634
Inspection of road work by county surveyor	4845
Labor, employment of	1626
Limit of expenditures in road districts	1628
Local improvement districts for construction main highways—	
See subtitle road districts, local improvement	
Machinery, purchase of	1623
Main highways	1613
Malicious injury to	11464
Malicious injury to trees on	1737
Mining shafts, protection of	11267
Motor vehicles, regulation—See Motor Vehicles	1742-1763
Moving diseased sheep over	11537
Moving machinery along highways	1749
to halt, when	1750
Nails, depositing in highway forbidden	1740
Navigable waters are public ways	1604
Notice to city council of damage claims	5080
Obstruction of crossings by railroads, regulation of	6595
Obstructions, removal of	1627
See also subtitle encroachments	1726-1741
penalty for	1738
Pay of labor ordered by road supervisors	1627
Penalty for injuring or obstructing	1738
Permitting ditches to overflow ..	11531
Persons conducting water over must protect	7111
Private roads, how established ..	1765
Procuring dirt and stone from public lands for construction of	1814
Public highways	
classified	1613
defined	1612
Purchase of machinery and materials	1623
Putting carcasses in	11235
Quarries, purchase of	1623
Railroads, crossing of, duty on ..	1647
Regulation of railroad crossings outside cities and towns—See Railroads	6625-6636
Repair work, procedure to compel performance of	1627
Right-of-way	
conveyance to be recorded	1646

GENERAL INDEX.

HIGHWAYS (Continued)

Right-of-way (continued)	
for construction of pole lines, to whom granted.....	6645
grant by land board for.....	1850
Rights acquired by public in....	1616
Road builder, employment of....	1622
Road districts, local improvement assessment-roll	1689
objections, notice, hearing and corrections.....	1689
bids, opening, deposit, forfeiture bonds	1687
form and contents.....	1694
notice of levy of assessment	1694
order for issuance of.....	1694
payment of.....	1695
of interest.....	1697
redemption from assessments	1695
retirement.....	1697
to be issued to contractor or sold.....	1696
boundaries, how determined....	1681
claims and accounts, audit and payment	1699
collection of assessment by suit	1698
completed road a main highway	1701
condemnation proceedings to determine damages.....	1683
construction of act.....	1702
contract	
conditions	1686
letting bids.....	1686
notice to bidders, contents of	1687
costs	
apportionment of.....	1689
how assessed	1681
county	
commissioners may construct, when	1676
share of cost, how paid.....	1685
disposal of residue of funds....	1700
examination and survey of roads	1680
hearing on petition, notice....	1679
inspectors, appointment of....	1688
instalment plan, levy and collection	1692
county commissioners to provide method of payment..	1693
limit on expenditure.....	1628
meetings, how conducted.....	1679
order creating district.....	1682
payment of	
assessment	1690
immediate	1690, 1691
notice to landowners....	1691
installment	1690
counties' share of expense...	1684
petition	
for construction of.....	1678
to state, proportional share of costs	1684
rejection of bids, procedure on.	1688
report of county surveyor....	1682
resolutions of public interest...	1677
Road districts, special	
abolishment of, procedure.....	1674

HIGHWAYS (Continued)

Road districts, special (continued)	
are bodies corporate.....	1652
bills, how paid.....	1662
board of directors	
bond of treasurer.....	1654
compensation	1669
election	1654-1664
meetings	1670
officers	1654
powers of.....	1657, 1658
qualifications	1654
boundaries to be marked, when	1668
bridges, county and district, defined	1652
charges upon.....	1652
construction of act.....	1673
county	
assessor to report assessed valuations	1660
bridges	1652
superintendent of roads and bridges, appointment	1653
directors, appointment of.....	1656
district bridges.....	1652
election of board of directors...	1654-1664
canvass of returns.....	1667
declaration of results.....	1667
judges of election.....	1666
penalty for illegal voting....	1666
qualification of voters, challenges and oath.....	1665
tie vote.....	1667
establishment of	
district	1656
new roads by county commissioners on, how.....	1672
estimate of cost of work, charge on county.....	1652
machinery, borrowing of.....	1657
money not to be spent within cities and towns.....	1675
objects of.....	1652
petition for creation of	
hearing	1656
procedure	1655
purpose of act.....	1673
road	
funds	1661
supervisors, appointment of..	1657
viewers, appointment of....	1667
special	
deputy surveyor, appointment of	1652
road tax.....	1663
tax, special road.....	1663
tax-levy	
and collection.....	1659
exceptions from.....	1659
temporary funds, how provided	1671
viewers, compensation.....	1669
warrants to be issued in payment of bills.....	1662
Road supervisors	
See also subtitle supervision	
adjustment of damages.....	1630
appointment and powers...1622-	1631

GENERAL INDEX.

HIGHWAYS (Continued)

Road supervisors (continued)	
authority to construct drains and ditches.....	1630
drains and ditches, power to construct	1630
duties, reports and accounts...	1625
examination of reports by county commissioners.....	1629
labor and teams, employment of	1626
penalty for obstruction.....	1630
tools and implements	
by whom furnished.....	1631
preservation of.....	1631
Road tax-levy.....	1617
Section lines, highways to follow, when	1649
Sidewalks, private, construction of	1726
Special road districts—See subtitle road districts, special	
Speed and traffic regulations	
accessories required on motor vehicles	1753
automobiles to stop on approaching railroad.....	3842
disposal of fines.....	1752
drunkards	
discharge of.....	1746
employment as drivers.....	1745
duty of peace officers.....	1754
horses not to be left unhitched in cities and towns.....	1743
liability of owner for negligence of driver.....	1748
moving heavy machinery, regulations for.....	1749
penalty for violation of.....	1751
to halt, when.....	1750
passing street-cars, when forbidden	1743
penalty for violation of act....	1754
rules of the road.....	1743
speed	
limit, notice of, on bridges..	1736
regulations	1742
traffic regulations.....	1742, 1743
vehicles	
to be driven carefully.....	1742
to turn, how.....	1744
State highway commission—See Highway Commission, State..	
.....	1783-1802
State highways defined.....	1613
State may require labor on.....	26
Supervision of highways	
employment of road builder....	1622
powers and duties of county commissioners	1622
proceedings to be entered in minutes	1621
road supervisors	
appointment, bond and compensation	1624
duties, reports and accounts	1625
employment of help by.....	1626
penalty for failure to obey orders of.....	1627

HIGHWAYS (Continued)

Supervision of highways (continued)	
road supervisors (continued)	
remove obstructions, when...	1627
repair bridges, when.....	1627
Taxation for support of	
county commissioners to levy tax	1617
deduction from wages, when...	1620
employers to furnish list of employees liable	1619
liability for payment of.....	1620
extra levy for road and bridge construction	4713-4716
general road tax.....	1617
penalty	1619
receipt books, county treasurer to furnish	1619
road tax-levy.....	1617-1620
Teams, employment on.....	1626
Title of act.....	1610
Vacation of, how.....	1614
See also subtitle establishment, alteration and vacation	
Validation of certain bonds..	4634-4639
Water as public ways, when.....	1604
Width of public and private.....	1615

HIGHWOOD NATIONAL FOREST PRESERVE

Creation of.....	3766
------------------	------

HILL COUNTY

Boundaries and county seat.....	4325
---------------------------------	------

HIRING

See Landlord and Tenant for main index of subject	
Apportionment of hire.....	7740
Attornment of tenant to stranger	
void, when.....	7748
Charter party defined.....	7755
Defined	7730
Degree of care of hirer.....	7733
Dwelling-houses, lessee may repair, when	7742
Dwelling-houses, lessor to repair..	7741
Hirer, degree of care required...	7733
Hirer may make good letter's default	7753
Hirer may terminate, when.....	7737
Hirer must repair injuries, when	7734
Leases renewed by continued possession	7745
Letter may terminate, when....	7736
Letting parts of room forbidden.	7750
Lodgings, term presumed, when..	7744
Notice to quit.....	7746
Obligation of letter of personal property	7751
Of thing let for particular purpose, conditions.....	7735
Ordinary expenses borne by hirer	7752
Ownership of product of thing hired	7731
Quiet possession, agreement implied	7732
Real property, term presumed, when	7743

GENERAL INDEX.

HIRING (Continued)

Rent, when payable.....	7747
Return of thing hired.....	7754
Storage—See Storage.....	7660-7672
Tenant to deliver notices served on him, when.....	7749
Term, when presumed.....	7743
Terminates, when.....	7738, 7739
When deemed renewed.....	7746

HISTORICAL LIBRARY

See Library, State.....	1548-1564
Salaries of department.....	440

HOGS—See Swine

HOGSHEAD

Defined	4220
-------------------	------

HOISTING ENGINEERS

Hours of labor.....	3068, 3069
---------------------	------------

HOISTING ENGINES

Licenses	
application and fees.....	2731
classification	2733
penalty for operating without..	2736
qualify to operate what.....	2734
renewal	
and revocation of.....	2731
of application for.....	2735
scope of.....	2732
when necessary.....	2730
when need not obtain.....	2732

HOLDER

In due course defined.....	8459-8466
Of negotiable instrument defined	8402

HOLDING OVER

By public officers.....	423
-------------------------	-----

HOLIDAYS

Acts falling on, when to be performed	12
Defined	10
Exceptions to school laws.....	11
Excluded from computation of time in negotiable instrument	8405
In computation of time for maturity of negotiable instruments	8492
Presentment for acceptance of bills of exchange.....	8553
School	
defined	1062
excepted	11
Teachers need not work on.....	1060
Writs may be issued and served on	8829

HOLOGRAPHIC WILL

Defined	6981
How proved.....	10031
Need not be executed.....	6980

HOME ECONOMICS

See Extension Work.....	4487
-------------------------	------

HOMESTEADS

Abandoned, how.....	6951
Amount of land included in.....	6968

HOMESTEADS (Continued)

Appraisement on execution	
against	6954
amount of bid.....	6963
application of proceeds of sale.	6964
appointment of appraisers.....	6957
certificate of petition and notice	6956
compensation of appraisers....	6966
costs, payment by execution creditor	6967
duty of appraisers.....	6959
filing petition.....	6955
money equal to homestead exemption protected.....	6965
oath of appraisers.....	6958
report of appraisers.....	6960
setting apart homestead.....	6961
Consist of what.....	6945
Conveyed or encumbered, how....	6950
Declaration	
contents of.....	6971
must be recorded.....	6972
of abandonment, when effectual	6952
Disposal of, on divorce.....	5777
order concerning.....	5778
subject to revision.....	5779
Disposal upon death of claimant	6973
Execution against, proceedings on	6953
Exemption from forced sale....	6948
From what selected.....	6946
Head of family defined.....	6969
How	
exempt from execution.....	9430
set apart for support of family	
—See Probate Proceedings...	
.	10145-10148
Liability for debts of owner....	6973
Mode of selection.....	6970
Procedure to set apart from estates of decedents—See Probate Proceedings.....	10152-10157
Quantity and value of land allowed	6968
Sale, when ordered.....	6962
Selection	6968
from separate property of wife, how	6947
Subject to execution or forced sale, when.....	6949
Tenure by which held.....	6973

HOMICIDE

All witnesses need not be called.	11981
Assault with intent to kill.....	10976
Bare fear does not justify.....	10966
Burden of proof shifts, when.....	11980
Corpus delicti, proof of.....	10962
Degrees of murder.....	10955
Excusable and justifiable, not punishable	10967
Excusable homicide defined.....	10963
Fear justifies, when.....	10966
Justifiable homicide	
by officers.....	10964
by other persons.....	10965
Limitation of action.....	11722
Malice defined	10954
express or implied, when.....	10954

GENERAL INDEX.

HOMICIDE (Continued)

Manslaughter	
deceased must die, when.....	10961
jurisdiction of action.....	11716
kinds of.....	10959
punishment of.....	10960
time for commencing action...	11722
voluntary and involuntary.....	10959
Murder	
burden of proof on trial shifts,	
when	11980
death caused by holdup of train	11470
deceased must die, when.....	10961
defined	10953
degrees of.....	10955
first degree defined.....	10955
in second degree, punishment..	10957
jurisdiction when party dies in	
another county.....	11716
no limitation as to prosecution	11722
on interference with railroad	
property, punishment.....	11470
penalty for.....	10957
pending actions, how affected.	10956
petit treason abolished.....	10958
second degree defined.....	10955
time for commencement of ac-	
tion	11722
Proof of corpus delicti.....	10962
Testimony of witnesses reduced to	
writing, when.....	11783
how signed and authenticated..	11783

HORSE-RACES—See Races—See
Racing Bets

HORSES

Control of diseases—See Live-	
stock	11534-11541
Sale with glanders or contagious	
diseases prohibited.....	11263
Taking up without owner's con-	
sent	11551

HORSES AND CATTLE—See Live-
stock

HORTICULTURAL INSPECTOR

Appointment by commissioner of	
agriculture.....	3612

HORTICULTURE

Regulation by department of agri-	
culture, labor and industry—	
See Agriculture, Labor and	
Industry, Department of.3608-	3633

HOSPITAL ATTENDANTS

Exempt from jury duty.....	8893
----------------------------	------

HOSPITAL FOR INEBRIATES, STATE

Application for commitment, how	
made	1448
Charges for maintenance and	
treatment	1451
Control of.....	1446
Cost of examination and commit-	
ment, how paid.....	1450
Detention of patient.....	1453
Discharge of patient.....	1449

HOSPITAL FOR INEBRIATES,

STATE (Continued)

Establishment	1445
Examination and commitment....	1449
costs of.....	1450
Furnishing liquor or drugs to pa-	
tients, felony.....	1455
Liability for support of patient..	1452
Patient to be admitted.....	1447
Permit to be at liberty.....	1453
revocation of.....	1453
Proceedings to compel contribu-	
tion to support.....	1452
Rules and regulations.....	1454

HOSPITALS

Discrimination by, forbidden....	11577
Establishment of detention, by	
cities	5039
and counties, when.....	2469, 2470
Exemption from taxation.....	1998
Fire-escapes—See Fire-escapes...	
.....	2779-2785
Punishment for violation.....	11578
Records furnished bureau of vital	
statistics	2536

HOTELS

Adulterated foods	
law governing service of..11245,	11246
possession of, as evidence.....	11247
Ashes, disposal of.....	2489
Beds and bedding.....	2487
Cooking utensils, kitchens and din-	
ing-rooms	2488
Defined	2485
Drinking-water	2497
Fines, disposal of.....	2495
Fire-escapes—See Fire-escapes...	
.....	2780-2784
Fumigation of rooms.....	2490
Inspectors	
appointment by board of health	2492
certificate of.....	2493
complaints by.....	2494
notice	2494
Liability for and lien upon prop-	
erty in care of—See Deposit	
.....	7673-7683
License	2589
Lien of keepers on property—See	
Agister	8383-8386
Maintenance by railroads in na-	
tional parks.....	6508
Must maintain office and register	2485
Penalty for	
defrauding	7684, 11579
refusal to receive guests.....	11218
violation of act.....	2498
Register, duty to maintain.....	2485
Roller-towel, use of, forbidden..	2486
Sale of game by, when permitted	3737
Sanitation, plumbing and wash-	
room supplies.....	2486
Stairways, specifications for....	2780
State board of health, powers over	2491
Toilets, regulation of.....	2486
Transfer of state board of health	
hotel fund.....	2496

GENERAL INDEX.

HOTELS (Continued)

- Use of oleomargarine or imitation butter.....2622, 11249
- Wash-rooms, regulation of..... 2486

HOURS OF LABOR

- Children—See also Child Labor.. 3095— 3104
- Eight hours to constitute day's work, when..... 3079
- Eight-hour law, penalty for violation .. 3080
- Female employees..... 3076
- seats for..... 3077
- penalty for violation of act... 3078
- For prison guards..... 12441
- penalty for violation of act... 12442
- Hoisting engineers..... 3068
- penalty for violation of act... 3069
- Jailers .. 3070
- Members of fire department..... 5138
- Miners .. 3071
- Municipalities, county and state government .. 3079
- On Carey land act contracts.... 1962
- Railroad employees..... 3081
- penalties for violation of act... 3082
- wreck trains excepted..... 3083
- School districts of first class.... 3079
- Smeltermen .. 3072
- Telephone operators..... 3074
- penalty for violation of act... 3075
- Underground miners.....3071, 3079

HOUSE JOURNALS

- How distributed..... 135

HOUSE OF REPRESENTATIVES

- See also Legislative Assembly
- Assistant clerk, duties..... 67
- Clerk, duties..... 66
- Clerks, and employees, enumerated 63
- Journal, authentication of..... 68
- Membership
- apportionment .. 44
- from new counties..... 46
- number of..... 45
- oath .. 59
- Officers and employees..... 63
- Organization .. 58
- Power of impeachment vested in 11669
- Sergeant-at-arms, duties..... 69
- Speaker of..... 63
- Term of office of members..... 52

HOUSEBREAKING

- See Burglary11346-11352

HOUSES

- See also Hiring
- Duty of lessor to repair..... 7741
- Lessee may repair, when..... 7742

HOUSES OF PROSTITUTION

- See also Prostitution
- Abatement of buildings constituting nuisances—See Intoxicating Liquors.....11123-11133
- Admission of minors to, forbidden 11046
- Keeping
- disorderly house forbidden.... 11141
- or residing in, forbidden..... 11140
- Residents of, vagrants..... 11521

HUCKSTERS

- What property exempt from execution .. 9428

HUMANE OFFICER

- Appointment and duties.....341- 344

HUNGARIAN GRASS

- Pounds in bushel..... 4226

HUNGARIAN PHEASANT

- Killing forbidden..... 3700

HUNTING

- See also Game and Fish
- On premises of another, when forbidden .. 11481, 11482

HUNTING LICENSES

- See Game and Fish.....3681- 3707

HUSBAND AND WIFE

- See also Marriage
- See also Married Women
- See also Parent and Child
- See also Wife
- Adoption of child, consent of wife 5858
- Contracts, powers concerning.... 5786
- Conveyance, nonresident wife need not sign..... 5818
- Conveyance of homestead, how... 6950
- Custody of children, actions for.. 5836
- Debts, antenuptial, of wife, liability of husband..... 5798
- Debts of each other, liability for 5790
- Divorce of—See Divorce....5734- 5781
- Dower of wife—See Dower..5813- 5828
- Earnings and accumulations of wife not liable for husband's debts .. 5795
- are separate property, when... 5796
- Education of children, liability for 5790
- Head of family to select home.. 5745, 5783
- place must be reasonable..... 5746
- Husband
- duty to support wife..... 5784
- head of family..... 5783
- not liable for antenuptial debts of wife..... 5798
- not liable for support of wife when abandoned..... 5801
- not liable for support of wife's children by former marriage 5846
- Inherit, how..... 7073
- Interests in property separate... 5785
- Inventory of separate property.. 5793
- effect of filing..... 5794
- Joint tenants..... 5789
- Legal consideration for separation 5788
- Legal relations, when altered by contract .. 5787
- Liability of husband for necessities .. 5800
- Marriage settlement contracts
- acknowledgment and record.... 5805
- effect of record..... 5806
- how executed..... 5804
- minors may make..... 5807
- Marriage settlement, recording.. 5803
- Married woman
- as executrix, guardian or trustee 5808
- liable for contracts..... 5810

GENERAL INDEX.

HUSBAND AND WIFE (Continued)

Married woman (continued)	
may make contracts.....	5811
may make will.....	6975
may prosecute actions, when...	5791
may sue.....	5809
May occupy same room in jail...	12470
Mutual obligations of.....	5782
Necessaries for family, liability for	5790
Neither can exclude other from dwelling	5785
Property, how may be held by....	5789
Property rights of husband, how governed	5803
Recovery for articles furnished for support of wife.....	5800
Right to contract.....	5786
Selling real property under false representations	11413
Separate property of wife.....	5792
for what debts liable.....	5799
inventory of.....	5793, 5794
Separation agreements.....	5787, 5788
Support of wife, liability of husband for.....	5800
When	
incompetent as witnesses.....	12176
witnesses for or against each other	10536
Wife	
may defend, when.....	9070
must support husband, when... ..	5784, 5802
to conform to dwelling	5783
Work and labor of wife, presumption regarding	5797

ICE CREAM

License for parlors	
from livestock sanitary board..	3282
from state board of health.....	2589

ICE CREAM FACTORIES

Licensed by livestock sanitary board	3282
--	------

IDENTITY

Opinion of witnesses as to.....	10531
Presumption as to, of name.....	10606

IDIOTS

Are insane persons.....	1420
Cruelty to.....	11214
Not capable of committing crime	10729
Not entitled to vote.....	543
Persons of unsound mind are....	5676
Use of force in managing.....	10980

IGNORANCE

Mistake of fact through, avoids contract	7485
--	------

ILLEGITIMATE CHILDREN

See also Bastardy, Proceedings in	12267-12274
Adoption by acknowledgment....	5865
Adoption, consent of mother necessary	5859
Appointment of guardian for....	5873

ILLEGITIMATE CHILDREN (Continued)

Custody and earnings, mother entitled to.....	5837
Illegitimacy, proof of.....	5832
Mother inherits from.....	7075
Presumption against illegitimacy	10606
Rights of inheritance.....	7074
Subsequent marriage of parents..	5852

ILLNESS

See Sickness	
Of jurors, procedure on.....	12000, 12013

IMBECILES

Are persons of unsound mind.....	5676
----------------------------------	------

IMMUNITY

Witnesses—See Witnesses	
-------------------------	--

IMPANELING

Juries—See Juries	
-------------------	--

IMPEACHMENT

Articles	
how prepared.....	11670
service on defendant.....	11672, 11673
to whom delivered.....	11671
Conviction	
how had	11669, 11679
judgment of suspension.....	11683
Counsel for defendant to be appointed, when.....	11675
Court of—See Court of Impeachment	8786- 8789
Defendant may answer or demur	11676
Demurrer, procedure on overruling	11677
Disqualifies until acquittal.....	11684
Effect of filing articles.....	11684
How tried.....	11669
Judgment	
how pronounced.....	11680, 11681
nature and effect of.....	11682
of conviction on plea of guilty.	11677
of suspension, effect on salary	11683
Judicial records, how.....	10566
Justices of peace not liable to...	11668
Lieutenant-governor, how impeached	11685
Not a bar to indictment.....	11686
Of	
judicial records, how.....	10566
witness by party producing, when	10666
witnesses, how.....	10666-10669
Plea, how entered, effect of.....	11676
Power vested in house of representatives	11669
Presiding officer when lieutenant-governor is impeached.....	11685
Procedure for, preserved when not specified in code.....	10716
Procedure when governor or lieutenant-governor on trial....	11669
Proceedings on	
failure of defendant to appear	11674
preserved	10716
Resolution of, adoption and presentation	11670

GENERAL INDEX.

IMPEACHMENT (Continued)

Senate to be sworn.....	11678
to try.....	11669
to try impeachment, when.....	11677
Service on defendant, when and how made.....	11672, 11673
Temporary suspension of defendant, when.....	11684
Time of hearing.....	11672
Trial by senate.....	11670
Two-thirds necessary to conviction	11679
Vacancy, how filled.....	11684
What officers liable to.....	11668

IMPLIED BIAS

Grounds of challenge for.....	11960
-------------------------------	-------

IMPLIED CONTRACTS

See Contracts	
In guaranty.....	8177

IMPLIED COVENANTS

What are.....	6874
---------------	------

IMPORTATION

Of armed men into state, when forbidden	11315
Of nonresident deputies forbidden	10925-10927

IMPOSSIBILITY

Definition of.....	7500
Object of contract impossible, contract void.....	7501
Of ascertaining consideration of contract	7510, 7511
Law does not require.....	8760

IMPOUNDED ANIMALS

Duties of cities and towns concerning—See Cities and Towns	5175- 5182
--	------------

IMPOUNDING

Animals without food or drink, penalty for.....	11510
---	-------

IMPRISONMENT

See also Sentence.....	12075-12086
After discharge on habeas corpus, when permissible.....	12371
Arrest, restraint necessary	11752
Civil death, when.....	11601, 11602
Civil rights suspended.....	11600
Convict under protection of law.	11604
Depositions of prisoners.....	12198
Failure to give security to keep the peace.....	11643
False, defined and how punished..	10988
False, misdemeanor.....	10921
Fine and costs, discharge, when..	12072
Fine may be added.....	11599
Fines, pauper's oath.....	12071
Hard labor.....	12092
Judgment	
how executed.....	12089-12091
may direct to satisfy fine and costs	12069
Life sentence.....	11598
civil death.....	11601

IMPRISONMENT (Continued)

On civil process	
creditor to advance funds for prisoner's support.....	9886
discharge final, when.....	9883
examination before judge.....	9878
interrogatories to be proposed in writing, when.....	9879
judgment in force against estate	9884
notice of application, how given	9876
oath to be administered to prisoner	9880
order of discharge.....	9881
person confined, how discharged	9875
plaintiff may order, effect of..	9885
poor debtor's oath.....	9880
prisoner may apply again for discharge, when.....	9882
service of notice.....	9877
Removal for purpose of testifying	12186
Second term, when to commence	11596
Term commences to run, when....	11597
To be actual, in jails.....	12471
Unlawful, discharge on habeas corpus	12360-12362

IMPROVEMENT DISTRICTS

Cities and Towns—See Cities and Towns	5225- 5270
Counties—See Rural Improvement Districts.	4574- 4603
Roads, local improvements for—See Highways	

IMPROVEMENTS

Defined, for taxation purposes....	1996
On	
lands, how assessed.....	2001
state lands, valuation of.....	1862, 1889, 1898, 1899

IN FORMA PAUPERIS

Divorce actions, when.....	5780
Suits in, when.....	9809

INADVERTENCE

Opening default for.....	9187
--------------------------	------

INCAPACITY

Marriage voidable for.....	5698
ground for annulling.....	5729
Of agent terminate agency.....	7974
Terminates hiring, when.....	7739
To contract.....	5684, 5685

INCEST

Certain marriages forbidden....	5699
Jurisdiction when defendant apprehended in another county.	11711
Punishment of.....	11029
Solemnization of marriage forbidden	11212
What constitutes.....	11029

INCIDENTS

Implied in contracts, when.....	7547
Transfer of.....	6857

INCOME

Defined	6720
Ownership during suspension of alienation	6715

GENERAL INDEX.

INCOME (Continued)

Property, restrictions concerning disposal of—See Property.... 6709- 6721

INCOME TAX AUDITOR

Bond of..... 464

INCOMPETENT PERSONS

Appointment of guardian for—See Guardianship10412-10416
Cannot disaffirm contracts, when, 5681
Contracts subject to rescission, when 5684
Effect on contracts if judicial termination of incapacity..... 5685
Guardian ad litem.....9071, 9072
in justice courts..... 9630
Liability for support..... 5683
May
bring actions to recover escheats, when..... 9962
contest probate of will, when.. 10048
Restoration to capacity..... 10415
Service of summons on..... 9111
Who incompetent to marry 5699

INCORPORATION

See also Corporations
Of bank, how proved on forgery trials 11983

INCORRIGIBLE CHILDREN

See Juvenile Delinquents...12275-12301

INCREASE

Capital stock of corporations—See Corporations5918- 5929
Pledged property, who owns..... 8295
Property, by whom owned 6714

INCUMBRANCES

See also Liens
See also Mortgages
Covenants against..... 8671
Meaning of term..... 6875
Unrecorded instruments void against 6935

INDEBTEDNESS

Counties, limit on..... 4447

INDECENT EXPOSURES AND EXHIBITIONS

Character to be determined..... 11138
Destruction of articles..... 11139
Seizure of articles authorized.... 11137
What constitutes..... 11136

INDEMNITY

Against a future wrongful act void 8164
Against a past wrongful act valid. 8165
Agreement for
construction of..... 8169
definition of..... 8163
Agreement to
answer in damages entitles indemnitor to rights of surety. 8170
indemnify extends to acts of agents 8166

INDEMNITY (Continued)

Agreement to (continued)
indemnify several applies to each 8167
Applies to each of several persons, when..... 8167
Defined 8163
For slaughtered livestock—See Livestock3271- 3278
Insurance, a contract of 8060
Judgment against sheriff, conclusiveness against sureties..... 9824
Liability of indemnitor
joint with person indemnified.. 8168
several to indemnitees..... 8168
Measure of
fire insurance..... 8157
life insurance..... 8162
Of
depositor to depositary..... 7648
employer to employee....7757- 7759
guarantor inures to creditor... 8193
partner 7991
trustee 7917
Rules for interpreting agreement. 8169
Sheriff on third party claim.....
..... 9273, 9426
Surety companies not to require..
..... 6234, 6235

INDETERMINATE SENTENCE

See Sentence.....12075-12077

INDEX

Code index to be prepared...142, 5535
County clerk to keep..... 4799
Court records, form of..... 4817
Law librarian to
employ stenographer for, when. 1567
make for session laws..... 1565
Session laws, duty of secretary of state142, 1566

INDIAN RESERVATIONS

Service of process on..... 21
Voting precincts on..... 552

INDIANS

See also Crow Indians.....1806- 1808
Not to carry firearms off reservation 11314
confiscation and sale of arms.. 11314
Sale of firearms to, forbidden.... 11259

INDICTMENT

Accessories, where it may be found 11864
Against judge, procedure..... 11930
Amendment, after allowance of demurrer11902-11904
during trial, when.....11870, 11871
Attempts, defendant may be convicted of..... 11868
By grand jury—See Grand Jury..
..... 11833-11840
Charge in the alternative, when. 11847
Charging time when offense committed 11848
Codefendants, conviction or acquittal 11862

GENERAL INDEX.

INDICTMENT (Continued)

Concurrence necessary.....	11833
Conspiracy, allegations.....	11979
Construction of words used.....	11850, 11851
Contents of.....	11843
Conviction or acquittal, when bar.....	11914
Copy to be given defendant on arraignment.....	11888
Counts in.....	11847
Crime prosecuted by.....	11798
Defect in form not material, when.....	11853
Definition of.....	11616
Degree of evidence warranting.....	11825
Demurrer	
allowance, discharge of defendant.....	11903
allowance, when bar, when not.....	11902
disallowance, procedure.....	11905
grounds of.....	11898
its essentials.....	11899
judgment on.....	11901
time of hearing.....	11900
Directness and certainty.....	11845
Disclosure before arrest, misdemeanor.....	11867
Disclosure of finding of.....	10946
Dismissal	
for defect in form, not acquittal of action, when.....	11912 12223
Embezzlement, pleading.....	11860
Erroneous description of person injured.....	11849
Fictitious name, true name to be inserted, when.....	11846
First pleading by state.....	11842
Fixing of bail.....	12145
Foreman of grand jury to sign.....	11838
Forgery, where instrument destroyed, etc.....	11858
Form of.....	11844
Former conviction, form of verdict.....	12023
How found by grand jury.....	11833
How presented and filed.....	11837
Immaterial defects.....	11853
Impeachment no bar to.....	11886
Indorsement	
of witnesses.....	11836
on.....	11833
Judgments, how pleaded.....	11855
Jurisdiction, time of taking objections.....	11906
Larceny	
of money, etc., description, when allegation sustained.....	12008
pleading.....	11860
Libel, pleading.....	11857
Lost or destroyed, trial on copy.....	11866
Mistake in, effect.....	11989
Motion to set aside	
effect of granting.....	11893
essentials.....	11892
granting new indictment.....	11894
granting, not bar to prosecution.....	11895
grounds for making.....	11891
when heard.....	11893
Must be direct and certain.....	11845

INDICTMENT (Continued)

Must charge but one offense....	11847
Number of grand jury necessary to find.....	11807
Obscene literature, sale, pleading.....	11861
Offense of which defendant may be convicted.....	11868
Partnership property, pleading...	11869
Perjury or subornation, pleading.....	11859
Pleas to.....	11907
Presumptions of law, unnecessary to plead.....	11854
Private statutes, how pleaded...	11856
Prosecution	
By, in district court.....	11622, 11623
by, when.....	11629
of crime by.....	11607
Public offenses prosecuted by....	11798
Record by clerk.....	11866
Set aside on motion, when.....	11891
Time	
allegation in charge, when material.....	11848
of pendency not counted, when.....	11727
To charge but one offense.....	11847
True name of defendant, arraignment, procedure.....	11889
Variance, acquittal on ground of, not good as plea.....	11912
Waiver of defects, when.....	11892
Warrant	
indorsement of bail.....	11840
to issue upon finding.....	11839
What to contain.....	11843
When found.....	11726
not to be quashed.....	11836
sufficient.....	11852
to be set aside.....	11891
Where found and filed.....	11800

INDIGENT

See also Poor	
Parents, duty of child to support.....	5853- 5855

INDORSEMENT

See Negotiable Instruments Law	
Complaint by clerk.....	9106
Of bills by governor.....	84
Of witnesses on information....	11805
On indictment.....	11833
Presumption as to.....	10606

INDUSTRIAL ACCIDENT BOARD

See Workmen's Compensation Act.....	2816- 3033
Appointment inspectors quartz mines.....	3418
Boiler inspectors, appointment...	2712
Bond of	
chairman of.....	464
chief accountant of.....	464
Coal mine inspector	
appointment.....	3448- 3460
from names certified.....	3466
procedure to remove.....	3458
Composition of.....	2819

GENERAL INDEX.

INDUSTRIAL ACCIDENT BOARD

(Continued)

Consolidation offices of inspectors of boiler requirements and coal mine inspector.....	3034
appointment and term of inspectors	3035
Duties concerning vocational rehabilitation	3047
Examiners of coal mine inspectors, appointment	3459, 3467
Mine foreman or examiner, removal by.....	3460
Salary appointive member.....	2819

INDUSTRIAL CORPORATIONS

See Corporations.....	5908
-----------------------	------

INDUSTRIAL SCHOOL, STATE

See Montana State Industrial School	12488-12515
---	-------------

INDUSTRIAL SCHOOLS

See Schools, Public.....	1157- 1170
Reference to law governing state	1603

INEBRIATES

See Hospital for Inebriates..	1445- 1455
-------------------------------	------------

INFANTS

See also Children—Minors—Guardianship

Action for partition of real property	9517
---	------

Appearance

by guardian.....	9071
------------------	------

in justices' courts by guardian ad litem.....	9630
---	------

Effect of infancy on limitations..	9049
------------------------------------	------

Fraudulent pretenses relative to birth	10934
--	-------

May

bring action to recover escheats, when	9962
contest probate of will, when..	10048

Parties to actions, how.....	9071, 9072
------------------------------	------------

Shares of, in partition sales, paid to guardian.....	9564
--	------

Substituting one child for another	10935
------------------------------------	-------

Summons on.....	9111
-----------------	------

Time in which to bring actions to vacate sales of estates.....	10246
--	-------

When capable of committing crime	10729
----------------------------------	-------

INFECTIO

Afflicted children not to be sent to industrial school.....	12503
---	-------

Exposing in public place.....	11257
-------------------------------	-------

Exposing infected clothing.....	11503
---------------------------------	-------

Removal of prisoners from county jail	12479
---	-------

INFORMATION

Accessories, where it may be found	11864
--	-------

Actions prosecuted by.....	11623
----------------------------	-------

INFORMATION (Continued)

Against corporation.....	12235
Against judge, procedure.....	11930

Allegations as to partnership property, when sufficient.....	11869
--	-------

Amendments	11804
------------------	-------

after allowance of demurrer..	11902-11904
-------------------------------	-------------

during trial, when.....	11870, 11871
-------------------------	--------------

Application for leave to file, how made	11624
---	-------

Attempts, defendant may be convicted of.....	11868
--	-------

Certain distinctions between principals and accessories abolished	11863
---	-------

Charge in the alternative, when..	11847
-----------------------------------	-------

Charging time, when material....	11848
----------------------------------	-------

Clerk to enter order granting leave, when.....	11627
--	-------

Codefendants, conviction or acquittal	11862
---	-------

Conspiracy, allegations.....	11979
------------------------------	-------

Construction of words used.....	11850, 11851
---------------------------------	--------------

Contents of.....	11843
------------------	-------

Conviction or acquittal, when bar	11914
-----------------------------------	-------

Copy to be given to defendant on arraignment.....	11888
---	-------

County attorney to file, when....	11626, 11801
-----------------------------------	--------------

Court may order filing, on refusal of county attorney to act....	11803
--	-------

Court may require, after discharge of grand jury.....	11820
---	-------

Defects not affecting substantial rights, effect of.....	11853
--	-------

Definition	11617
------------------	-------

Demurrer	
----------	--

allowance, discharge of defendant	11903
---	-------

allowance, when bar, when not	11902
-------------------------------	-------

disallowance, procedure.....	11905
------------------------------	-------

grounds of.....	11898
-----------------	-------

judgment on.....	11901
------------------	-------

when to be heard.....	11900
-----------------------	-------

Departure from prescribed form, when immaterial.....	11874
--	-------

Different counts may be used....	11847
----------------------------------	-------

Directness and certainty.....	11845
-------------------------------	-------

Disclosure before arrest, misdemeanor	10946, 11867
---	--------------

Disclosure of filing, when forbidden	11628
--	-------

Dismissal	
-----------	--

for defect in form, not acquittal of charge by grand jury, bar to, when.....	11835
--	-------

Dismissal of action, when.....	12223
--------------------------------	-------

District court may order filing...	11625
------------------------------------	-------

District judges, information against, how tried.....	11930
--	-------

Duty of county attorney...	11801-11803
----------------------------	-------------

Effect of verdict after amendment	11872
---	-------

Embezzlement, pleading.....	11860
-----------------------------	-------

Erroneous description of person injured	11849
---	-------

GENERAL INDEX.

INFORMATION (Continued)

Fictitious name, true name to be inserted, when.....	11846
Filing of.....	11801
First pleading by state.....	11842
Fixing of bail.....	12145
Forgery, where instrument destroyed, etc.....	11858
Form of.....	11844
Former conviction, form of verdict.....	12023
Grounds for setting aside on motion.....	11891
Immaterial defects.....	11853
Impeachment no bar to.....	11886
Indorsement, names of witnesses.....	11805
Issues on plea of not guilty.....	11910
Judgments, how pleaded.....	11855
Jurisdiction, objections, time of taking.....	11906
Jurisdiction of action—See Jurisdiction	
Larceny	
of money, etc., description, when allegation sustained...	12008
pleading.....	11860
Leave to file	
entered on minutes.....	11627
not to be disclosed.....	11628
Libel, pleading.....	11857
Lost or destroyed, trial on copy..	11866
Mistake in, effect.....	11989
Motion to set aside	
essentials.....	11892
granting, new information....	11894
granting not bar to new prosecution.....	11895
grounds for.....	11891
hearing.....	11893
refusal, procedure.....	11893
Must be direct and certain.....	11845
Must charge but one offense.....	11847
Not to be disclosed prior to arrest	11867
Objections waived unless defendant moves to set aside.....	11892
Obscene literature, sale, pleading	11861
Obscenity, pleading, when sufficient.....	11861
Of what defendants may be convicted under.....	11868
Offices not to disclose fact of filing	11628
One of several defendants convicted or acquitted.....	11862
Order	
entry in minutes of court.....	11627
of court granting leave to file..	11625
Partnership property, pleading..	11869
Penalty for disclosing filing.....	10946
Penalty for failure of county attorney to file.....	11801
Perjury or subornation, pleading.	11859
Plea of guilty, how put in.....	11909
when withdrawn.....	11909
Plea of not guilty, when to be entered.....	11915
Pleas to.....	11907
form of.....	11908

INFORMATION (Continued)

Pleas to (continued)	
how put in.....	11908
kinds of.....	11907
Presumptions not to be stated...	11854
Presumptions or judicial notice need not be alleged.....	11854
Private statutes, how pleaded....	11856
Procedure on mistake in.....	11989
Procedure when original lost or destroyed.....	11866
Proceedings for removal of public officers, when by.....	11799
Prosecution in district courts by..	11622, 11623
Prosecution of crime by.....	11607
Public offenses prosecuted by....	11798
Record by clerk.....	11866
Recorded, when and where.....	11866
Set aside on motion, when.....	11891
Time offense committed, how charged.....	11848
To charge but one offense.....	11847
True name of defendant, arraignment, procedure.....	11889
Variance, acquittal on grounds of, not good as plea.....	11912
Waiver of defects, when.....	11892
What to contain.....	11843
When and where filed.....	11801
When sufficient.....	11852
When to be set aside.....	11891
Witnesses' names to be indorsed on.....	11805
Words used in statute not to be strictly followed.....	11851

INFORMATION AND BELIEF

Complaint, in injunction.....	9244
Denial on.....	9179

INHERITANCE

See Succession.....	7071- 7092
Words of, when not necessary....	6855

INHERITANCE TAX

Advisory powers state board of equalization.....	10394
Amount of tax.....	10378, 10379
value property, how determined	10391
Ancillary letters, jurisdiction of court to give.....	10388
Appeals	
from orders state board of equalization.....	10388
court may determine what..	10388
to supreme court.....	10388
Application for refund, time for making.....	10384
Appraisement of property	
appointment appraisers.....	10389
fees of appraisers.....	10390
hearing on report.....	10391
procedure for appraisal.....	10390
procedure to determine amount of tax.....	10391
report of appraisers.....	10391
transfers of property, appraisal on.....	10391

GENERAL INDEX.

INHERITANCE TAX (Continued)

Attorney-general to carry out directions state board of equalization	10394
may	
apply for rehearing.....	10391
apply for reappraisal....	10391
to apply for citation, when....	10392
Bequests in lieu of commissions taxable	10386
Blanks, preparation by state board of equalization.....	10394
Bond on election to pay.....	10385
interest charged on.....	10382
renewal.....	10385
Citation to show cause on non-payment	10392
Clear market value of property..	10377
procedure to determine.....	10391
Commissioner of insurance to determine value future interests	10391
County treasurer to	
make reports, when.....	10395
notify attorney-general of unpaid taxes.....	10392
pay interest, when.....	10395
pay to state treasurer.....	10395
Courts, powers on appeal.....	10388
Decedent defined.....	10398
Deduction from legacy.....	10383
Definition of terms.....	10398
Discount for payment.....	10382
Disposition of taxes.....	10388, 10399
District court to determine amount of, procedure.....	10391
Effect of act upon existing laws..	10400
Election not to pay, bond on....	10385
Erroneous payment, refund for..	10384
Estate defined.....	10398
Estates in excess of twenty-five thousand dollars	
amount of tax.....	10379
primary rates defined.....	10379
Estates in expectancy	
settlement for tax on.....	10396
value, how determined.....	10391
Estates not exceeding twenty-five thousand dollars	
amount of tax.....	10378
order of succession.....	10378
Exemptions	10380
Existing laws, how affected.....	10400
Foreign executors, transfers by, when subject to.....	10387
Forms, preparation by state board of equalization.....	10394
Future estates, settlement for tax on, procedure.....	10396
Future interests, value, how determined	10391
How payable.....	10381
Imposition of.....	10377
Interest	
charged when bond given.....	10382
county treasurer to pay, when..	10395
Jurisdiction of district court....	10388
Legacies, deduction of tax from..	10383

INHERITANCE TAX (Continued)

Nonresident decedents	
ancillary letters, petitions for..	10388
appeals from orders board of equalization	10388
disposal of tax money.....	10388
state board of equalization may require statement as to property	10388
statements to be furnished board of equalization.....	10388
transfer of securities, application to determine tax.....	10388
Not to exceed 15 per cent of property	10379
On what property imposed.....	10377
Order of court determining amount	
attorney-general may apply for reappraisal	10391
contents of.....	10391
rehearing, who may apply for..	10391
where filed.....	10391
Payment, discount, when given..	10382
Personal property outside of state	10380
Power of appointment deemed taxable transfer.....	10377
Primary rates defined.....	10379
Procedure to determine amount of tax	10391
Property	
defined	10398
subject to tax, when.....	10377
when exempt from tax.....	10380
Public administrator	
additional compensation.....	10393
application by, for payment of tax	10393
fees for service.....	10393
Rate of tax.....	10378
Reappraisal value of estate, when made	10391
Receipt for.....	10397
production on settlement final account	10381
recording of.....	10397
Refund of tax, when.....	10384
Rehearing, attorney-general may apply for.....	10391
Repealing clause.....	10400
Report of county treasurer.....	10395
Reports of legislature by board of equalization.....	10394
Sale of property to pay	10385
Settlement for, on estates in expectancy	10396
State board of equalization	
appeal from decision of.....	10388
authority to administer law....	10394
determination of tax by.....	10388
duty to	
prepare blanks.....	10394
report to legislature.....	10394
require reports, when.....	10387
supervisory powers.....	10394
State treasurer to	
issue receipt.....	10397

GENERAL INDEX.

INHERITANCE TAX (Continued)

State treasurer to (continued)	
notify attorney-general unpaid	
taxes	10392
Stock transfers, when subject to.	10387
Tangible personal property outside of state.	10380
Tax money, how disposed of.	10399
Transfer	
defined	10398
in contemplation of death, procedure on.	10393
tax book.	10397
Transfer of securities by foreign executors	
penalty for violation act by corporations	10387
reports to state board of equalization	10387
subject to.	10387
when	10387
Trustees, authority of court to appoint	10388
Value of estates and future interests, how determined.	10391
When imposed on inheritances.	10377
When payable.	10381
Where payable.	10381

INITIALS

Use in pleadings, when allowed.	9190
---	------

INITIATIVE AND REFERENDUM

See also State Constitution, article V, section 1	
Ballots, form of.	104
Canvass of votes.	106
Certification and numbering of measures	103
False signatures.	107
Filing of petition.	100
Form of petition	
for initiative.	100
for referendum.	99
In cities—See Cities and Towns.	5058-5068
Manner of voting.	104
Notice to governor.	102
Number of measures.	103
Penalty for violation of act.	107
Printing and distribution of measures	105
Proclamation	102
Referred measures, when effective	108
Verification of signatures.	101
Who may sign.	107

INJUNCTION

After sale on execution, when.	9496
Against formation of trust, when authorized	9254
Allegations to be made, how.	9244
Allowed, when.	9241
Application	
to dissolve, procedure.	9250
to vacate, when decided.	9311
At what time granted.	9244
Bond not required, when.	9255
Bonds and undertakings.	9246

INJUNCTION (Continued)

Bonds in.	503
Complaint must be verified.	9244
Corporations, order, when granted	9253
Costs, award of.	9252, 9787
Court may grant to restrain injury to property during mortgage foreclosure.	9496
Defined	9240
Dissolution or modification, when made	9251
costs, when and how awarded.	9252, 9787
District judge may issue at chambers	8867
Effect of stay on statute of limitations	9055
Election between remedies, when required	9311
Granted with or without notice, when	9245
Hearing of application to vacate or modify.	9248
How enforced.	9240
How granted.	9240
How regulated.	8737
In	
labor disputes.	9242
probate proceedings.	10052
Limitations, actions, when stayed by	9055
May	
be issued and served, when	8829, 8850
issue without bond, when.	9255
Modification	9250, 9251
New undertaking, when required.	9248
Not granted, when.	9242
Notice required, when.	9245
On what papers granted	9244
Order	
as to corporations, notice.	9253
in what cases granted.	9243
to show cause, court to make, when	9247
when granted	9244
Preventive relief granted by.	8736
Restraining order, when issued.	9245
Security upon injunction or restraining order, when required	9246
exception to sureties, procedure	9246
Stay of action by, effect on limitations	9055
Supreme court	
actions, when commenced in.	8807
may issue, when.	8803
powers concerning.	8807
To	
enjoin liquor nuisances.	11067, 11123-11133
protect trademarks.	11207
suspend business of corporation, when granted.	9253
Trust, order against formation.	9254
Undertaking on.	9246
Verified answer has effect of affidavit, when.	9249
Violation of, in intoxicating liquor cases, contempt.	11069

GENERAL INDEX.

INJUNCTION (Continued)

When	
allowed	9241
granted on complaint alone....	9244
not allowed.....	9242
not to lie in tax suits.....	2268
Who may serve order.....	9244

INJURIES

By boats.....	9602
Civil action for.....	9000
Death by wrongful act, suit for..	9076
Division of.....	9002-9004
Duty to abstain from.....	7573
Intoxicated persons, recovery for	11065
survival of action.....	11065
Joinder of causes of action.....	9130
Place of trial.....	9619
To	
person defined.....	9004
property defined.....	9003
real property after sale on ex-	
ecution	9497
Who may sue for injuries to child	9075

INNKEEPERS

Liability for and lien upon prop-	
erty under care of—See De-	
posit.....	7673-7683
Penalty for defrauding.....	7684, 11579
Penalty for refusal to receive	
guests	11218
Railroads may maintain in na-	
tional parks.....	6508
Service of adulterated foods by..	
.....	11245-11247

INNOCENCE

Defendant, presumption as to....	11971
----------------------------------	-------

INNS—See Hotels

INQUESTS

See Coroner's Inquests.....	12381-12393
Jury	
defined	8889
how impaneled.....	8927
how summoned.....	8916

INSANE ASYLUM

Certificate from, as establishing	
legal capacity, when.....	5685
Defendant detained until sane...	12218
Duties as to insane convicts....	12461
Notice of sanity of defendant, to	
whom	12218
Removal of insane convicts to..	12461

INSANE ASYLUM BOND FUND

Authority to invest in state gen-	
eral fund warrants.....	270

INSANE ASYLUM, STATE

Board of charities and reform to	
investigate	331
Commitment to.....	1438
Consolidated clerkships.....	123
Contracts with other institutions,	
when	1419
Control of, in whom vested.....	1413

INSANE ASYLUM, STATE (Con-

tinued)	
Copy of laws to be posted.....	1427
Correspondent's name to be posted	1426
Cost of examination and commit-	
ment, how paid.....	1442
County commissioners, procedure	
before	1443
Delivery of insane person at asy-	
lum	1439
Discharge of patients, written re-	
port	1421
Examination, proceedings before	
chairman of county commis-	
sioners	1431-1443
before whom held.....	1431
duty of witnesses.....	1434
evidence, number of witnesses.	1432
Examining physicians.....	1433
Fees of physicians.....	1441
Hospital for inebriates—See Hos-	
pital for Inebriates....	1445-1455
Idiotic persons considered insane	1420
Indigent persons	
clothes and money on discharge	1422
only to be received.....	1430
Insane convicts.....	1428
Letter-writing by patients, rules	
governing	1423-1426
Maintenance of	
insane	
application of property.....	1444
order to show cause.....	1444
nonindigent insane.....	1430
Management of.....	1413
Money of insane persons, how dis-	
posed of.....	1440
Nonresident insane, when received	1429
Patients may be sent to friends,	
when	1418
Physicians	
certificate	1436, 1437
contents	1436
form of, blanks.....	1437
duty to examine.....	1435
fees and certificates.....	1441
Postal rights of inmates....	1423-1425
State board of commissioners for	
the insane	
management vested in.....	1413
may send patients to friends,	
when	1418
powers and duties.....	1414
Superintendent and assistant	
appointment of medical assist-	
ants	1416
appointment, salary and re-	
moval	1415
control by.....	1416
oath and bond of.....	1417

INSANE PERSONS

See also preceding title	
Appearance in justices' courts, by	
guardian ad litem.....	9630
Appointment of guardians for—	
See Guardianship.....	10412-10416
Cannot be tried or punished.....	12213

GENERAL INDEX.

INSANE PERSONS (Continued)

Cannot be witnesses.....	10535
Cannot vote.....	543
Cruel treatment of.....	11214
Guardians ad litem.....	9071, 9072
Incapable of committing crime...	10729
Limitations, in real actions do not affect	9026
Parties to actions, how.....	9071, 9072
Restoration to capacity.....	10415
Service of summons.....	9111
Shares of, in partition sales paid to guardian.....	9565
Summons on.....	9111
Time for commencing actions....	9049
Use of force in managing.....	10980

INSANITY

Acquittal, procedure.....	12036
After judgment of death, certificate, signing and filing.....	12097
duty of county attorney.....	12096
how determined.....	12095
inquisition into.....	12095-12098
procedure upon finding of jury.	12098
process for witnesses.....	12096
Cause for refusal to pronounce judgment	12065
Commitment after found insane..	12217
Commitment, exoneration of bail.	12217
Convicts, disposition of.....	12461
Defendant, inquiry concerning during trial	
commitment exonerates bail...	12217
court may submit question to jury	12214
detention of defendant in asylum	12218
expenses, how paid.....	12219
trial to proceed, how.....	12215
verdict of jury, effect of.....	12216
Form of verdict.....	12020
Ground for challenge of juror....	11958
Insane asylum, notice on defendant becoming sane.....	12218
Insane children not to be sent to reform school.....	12503
Insane person not to be tried or punished	12213
Jury to determine.....	12214
Stay pending determination....	12214
Transportation of insane defendant	12218
Trial, procedure.....	12215
Verdict of jury, procedure.....	12216

INSECT PESTS

Control of—See Agriculture, Labor and Industry, Department of.....	3608- 3633
County commissioners to appoint person to exterminate.....	4501
compensation	4502
statement of time employed....	4502
tax-levy to pay warrants.....	4504
Defined	4505
Fund	4502
Governor may quarantine against	3632
Purchase of poison.....	4503

INSECTICIDES

See Paris Green.....	2600- 2614
----------------------	------------

INSOLVENCY

See also Assignments for Benefit of Creditors.....	8612- 8641
See also Banks and Banking	
See also Fraudulent Conveyances	8603- 8611
As grounds for rescission of, novation	7463
Assessment accident insurance companies, proceedings.....	6244
Banks, procedure on—See Banks and Banking.....	6078- 6082
Fraudulent assignment.....	11435
Maker of note, permits protest before maturity of note.....	8565
Penalty for making or receiving deposits in insolvent banks	6081, 6082
Principal in guaranty.....	8180
Special partnership.....	8036- 8041
What constitutes.....	8613
When gives rise to right of stoppage in transit.....	8397

INSPECTION

Boilers—See Inspection of Boilers	2712- 2729
Books and papers of penitentiary	12451
Books, etc., refusal contempt....	9771
By cities and towns.....	5039
Commission to take deposition, open to.....	12211
Construction work by county commissioners	1632
Dairies	3267
Factories, mines, etc., by commissioner of agriculture.....	3637
Food—See Pure Food and Drug Act	2578- 2596
Gasoline—See Gasoline.....	4193-4208
Grain—See Agriculture, Labor and Industry, Department of	3574- 3602
before storage in terminal elevator	1599
Hotels—See Hotels.....	2485- 2498
Jails, by county commissioners..	12486
Justice courts may order, when..	9649
Livestock	
before shipment—See Livestock	3309- 3327
by livestock sanitary board—See Livestock.....	3260- 3295
markets—See Livestock...	3328- 3332
Meat and milk by livestock sanitary board.....	3267
state board of health.....	2589
Mines	
coal—See Mines and Mining.. ..	3448- 3546
consolidation of inspectors—See Industrial Accident Board... ..	3034- 3039
quartz mines—See Mines and Mining	3418- 3424

GENERAL INDEX.

INSPECTION (Continued)

Nursery stock and fruit trees— See Agriculture, Labor and Industry, Department of.	3608- 3633
Of books, refusal by collectors of revenue	11330
Oils and gasoline—See Gasoline..	4193- 4208
Papers, court may order, when.. evidence withheld.....	9771 10587
Public buildings by state board of health.....	2453, 2454
Public writings.....	10542
Refusal to permit stockholder to inspect books of corporation	11447
Right of buyer to inspect.....	7623
Seeds—See Agricultural Seeds...	3597- 3602
Special inspection of grain by commissioner of agriculture..	3590
Steam vessels—See Navigation..	3859- 3878
Weights and measures—See Weights and Measures..	4235- 4264
Witness may refresh memory....	10664
Writings, when shown to witness	10671

INSPECTION OF BOILERS

Board to re-examine applicants, when	2725
Boiler inspectors appointment	3035
qualifications	2713
Boilers, when exempted from act	2726
Certificate of inspection.....	2722
fees disposal of.....	2727
for	2723
penalty for falsification.....	2722
renewal of, fees for.....	2727
soldiers and sailors, renewal by	2727
Consolidation of inspectors under industrial accident board	3034- 3039
Donkey engines.....	2726
Duty of owners to permit examin- ation	2718
Engineers classification of.....	2720
licenses	2720
fees for.....	2723
revocation of.....	2721
Examination, when to be made..	2717
Fees for inspection.....	2723
Firemen, when to be licensed....	2720
Hydrostatic tests.....	2715
Inspection how conducted.....	2714
requirements in making.....	2715
Licenses penalty for operation without..	2719
to whom granted.....	2719
Locomotive engineers to procure licenses, when.....	2726
Materials to be used.....	2716
Operation of boiler or steam en- gine without license.....	2728
liability of owner or renter....	2728

INSPECTION OF BOILERS (Con- tinued)

Penalty for operating boiler with- out license.....	2728
Qualifications of boiler inspectors	2713
Re-examination for license.....	2724
Safety valves.....	2715
Sale of second-hand boilers.....	2729
Seal, punishment for removal....	2718
Sealing fire-boxes, when.....	2718
Stay-bolts	2715
Steamboat boilers, inspection of..	3870
Traction engines.....	2726
owner may require inspection of	4210
Unlicensed engineers, when em- ployed	2728

INSPECTOR OF MINES

Consolidation of office.....	3034
appointment and term of in- specter	3035

INSTITUTES

See Farmers' Institutes.....	1576- 1579
------------------------------	------------

INSTRUCTIONS

Additional, when granted.....	9354
Counsel may argue on law as given in.....	11969
Court to instruct on what points.	10672
Deemed excepted to.....	12043
Directed findings.....	9361
Directing verdict.....	9361
Errors, new trial.....	11969
Exceptions need not be noted.....	9387
to, by defendant.....	12037
to errors necessary for new trial or reversal by supreme court	9349
Jury may take to jury-room....	12011
May be given on holidays, when.	8850
Part of record.....	12043
Procedure governing settlement..	9349
Settlement of.....	11969
stenographer to be present....	11969
Settlement of exceptions in bill of exceptions	9349
Stenographer to record objections	9349
To grand jury.....	11818
Trial of question of insanity....	12215
When to be read.....	11969

INSTRUMENTS

See also Contracts	
See also Conveyances	
Acknowledgment—See Acknowl- edgments	6905- 6919
Action to obtain judgment prov- ing	6928, 6929
Cancellation of—See Cancellation	8733- 8735
Certificate of proof, contents of..	6925
Compulsion to execute, extortion.	11393
Construction of—See Evidence...	10518-10527
Conveyances heretofore made, by what law governed.....	6930
Defective early instruments, cura- tive act.....	6932

INSTRUMENTS (Continued)

Effect as evidence when acknowledged, before code.....	6931
Execution of, defined.....	10581
False personation.....	11407
Fraudulent, offering for recordation.....	10875
Improper certificate, how corrected.....	6927
Inspection of—See Inspection	
Judgment proving, right to obtain effect of judgments.....	6927
Obtaining signature to by threats.....	11392
Officers taking proof, authority of.....	6926
Power to revoke, when deemed executed.....	6941, 6942
Proof of execution when unacknowledged, how made.....	6920
handwriting, evidence of what facts.....	6924
handwriting, how proved.....	6923
subscribing witness must prove what.....	6922
witness must be known to officer.....	6921
Recording—See Recording Conveyances.....	6890- 6904
by county clerks.....	4795- 4810
Title deeds, ownership in whom vested.....	6815
Unlawful transfers—See Unlawful Transfers.....	6940- 6944
Unrecorded, valid between parties.....	6938
Written, mutilation of, etc.....	11492

INSULATION

See Electrical Construction..2677- 2709

INSURANCE

See also Hail Insurance, State Board of.....	350- 363
See also Insurance Commissioner, State	
See also Insurance Corporations	
Accident insurance—See subtitle life insurance.....	8159- 8162
Agent of company, solicitor, when deemed.....	8104
Agreements not to transfer, void, when.....	8120
Applicability of code provisions..	8064
Application for, in mutual farm companies.....	6177
loss to be prorated, when.....	6177
Assignments to mortgagee, effect of.....	8068
Burning or destroying insured property.....	11426
Communication of certain matters not necessary.....	8086
Concealment	
effect of.....	8084
what constitutes.....	8083
what must be disclosed.....	8085
Contracts no bar to recovery from master for negligence.....	7764
Contribution in case of over-insurance.....	8136, 8137

INSURANCE (Continued)

Defined.....	8060
Designation of parties.....	8065
Double insurance defined.....	8147
contribution in case of.....	8148
Events that may be insured against.....	8061
Expectant interests not insurable.....	8073
False proof of loss.....	11427
Fire insurance	
acts of insured, effect of.....	8156
alteration increasing risk authorized, rescission, when....	8154
alteration not increasing risk, effect of.....	8155
measure of indemnity.....	8157
Fraudulent concealment, effect of.....	8091
Health insurance—See subtitle life insurance.....	8159- 8162
Insurable interest	
change does not avoid, when...	8079
change on death of insurer, effect.....	8080
defined.....	8070
effect of change of, after loss..	8078
effect of transfer.....	8077
insurance without interest illegal.....	8075
interest of carrier or depositary may consist of what.....	8072
measure of interest.....	8074
mere expectancy not insurable.....	8073
must exist, when.....	8076
need not be communicated, when.....	8090
policy, when void.....	8082
transfer between co-tenants, effect.....	8081
Interest of insured need not be communicated.....	8090
Kinds of insurance.....	8063
all subject to provisions of act	8064
Laws	
liability of insurer on remote and presumed cases.....	8138
Life insurance, health and accident	
insurable interest, in what exists.....	8159
assignee of policy need not have.....	8160
measure of indemnity.....	8162
notice of transfer not necessary payable, when.....	8161
Loss	
certificate, when dispensed with expected perils.....	8146
incurred in rescue from peril, liability.....	8139
insurer liable for, when.....	8138
negligence and fraud, effect of notice of loss to be given insurer.....	8141
notice, waiver of defects in....	8142
perils, remote and proximate...	8144
preliminary proofs, how furnished.....	8138
	8143

GENERAL INDEX.

INSURANCE (Continued)

Loss (continued)	
waiver of defects in notice of loss	8144
waiver of delay in presenting proof	8145
Lotteries, insurance unauthorized	8062
Marine insurance defined	8153
Materiality, how determined	8087
Matters of opinion, communication of	8092
Matters which need not be disclosed	8086
Matters which parties are bound to know	8088
Mortgage, effect of assignment to	8068
New contract between insurer and assignee, when	8069
Notice of loss	8142-8146
Over-insurance, return of premium, when	8135
Parties, designation of	8065
Parties to contract defined	8065
Penalty for agents collecting premiums without license	6117
Policies	
acknowledgment of receipt in, effect	8119
agreement not to transfer claims void, when	8120
contents of	8107
defined	8106
general terms, who may claim benefit	8112
insurance by agent, indication of	8110
insurance by part owner terms applicable	8111
interest covered by	8109
kinds of	8115
must contain whole contract	8108
must specify what	8107
open policy defined	8116
running policy defined	8118
successive owners, insurance of transfer of thing insured, effect of	8114
valued policy defined	8117
when void	8082
Preliminary proofs, what required	8143
Premiums	
contribution on over-insurance	8136
contribution to be proportionate earned, when	8131
insured entitled to return, when insured not entitled to return, when	8133
return for fraud, when	8134
return in case of over-insurance, when	8135
Receipt, effect of acknowledgment in policy	8119
Reinsurance	
defined	8149
disclosures required	8150
original insured has no interest	8152
presumed to be against liability	8151

INSURANCE (Continued)

Representation	
affects policy, how	8097
as to future, deemed promise, when	8096
false, when deemed	8101
falsity, effect of	8102
how interpreted	8095
how made	8093
information, representations concerning	8100
materiality, how determined	8103
may be withdrawn, when	8098
representation on information, effect of	8100
time intended by	8099
when deemed false	8101
when made	8094
Rescission for fraudulent concealment, when	8091
Return of premium—See subtitle premiums	
Scope of act	8064, 8105
Solicitor deemed agent of company, when	8104
Wagering policies void	8082
Waiver of information permissible	8089
Warranties	
breach without fraud, effect of	8130
in what contained	8123
kinds of	8121
no particular form necessary	8122
performance excused, when	8127
policy may provide for avoidance	8129
statement as to future facts	8126
statement as to present facts expressed warranty	8125
to what time relates	8124
violation authorized rescission	8128
What may be insured against	8061
Who may be insured	8067
Who may insure	8066
INSURANCE COMMISSIONER, STATE	
Annual report of city clerk to	5125
Approval of articles of incorporation and amendments	6129
Auditing life insurance policies, duties concerning—See Abstracts of Life Insurance Policies	170-173
Authority to compel production of records	166
Bond	464
of deputy	464
Chief clerk, appointment and salary	165
Deputy	
appointment	162
meaning of term	168
salary	163
Duty	
as real estate commissioner—See Real Estate Commissioner	4078

GENERAL INDEX.

INSURANCE COMMISSIONER, STATE (Continued)

Duty (continued)	
as to surety companies—See Insurance Corporations, subtitle surety company.....	6206- 6236
to determine future interests for proportion of inheritance tax	10391
to prepare book on fire dangers for schools	1072
Employment of actuary by.....	164
Examination of insurance and surety companies.....	166
Investigation of corporation selling stock or organizing insurance companies.....	6126
License of insurance companies, revocation of.....	167
Life insurance policies, issuance license to abstract.....	170
Meaning of term.....	168
Net value life insurance policies, ascertainment by.....	6261
Official bond, responsible for safe-keeping	169
Payment to, for excess premiums	6117
Penalty for false reports to.....	166
Power to investigate organization of insurance companies.....	6126
Powers and duties concerning fraternal benefit societies.....	6317
Powers of fire marshal vested in	2762
Publication of examinations.....	167
Reference to law defining powers and duties.....	6110
Report of insurance companies to	5126
Revoking certificates of authority, procedure	167
Securities	
deposit, how made.....	169
withdrawal of.....	169
State auditor ex officio.....	162
Valuation of bonds life insurance companies by.....	6265
Vouchers for deposit of securities, duty to give.....	169

INSURANCE CORPORATIONS

Agents' licenses, issuance, term and fee.....	6118
fraternal associations exempt..	6119
Annual statements of	
assessment accident companies	6252
assessment life insurance companies	6299
life insurance companies.....	6273
mutual, fire, hail and other farm insurance companies.....	6181
mutual rural insurance companies	6196
stock and mutual companies other than life.....	6146
surety companies.....	6209, 6214, 6225
Annual statements, publication of	6120
Articles of incorporation, approval by commissioner	
amendments, approval.....	6129

INSURANCE CORPORATIONS (Continued)

Assessment accident insurance	
annual statement.....	6252
by-laws, amendment of.....	6256
change of beneficiary.....	6249
corporations subject to act....	6238
emergency fund.....	6241
exemption from execution.....	6250
exemptions from act.....	6238
fees for filing papers.....	6253
fees for service of process....	6246
foreign corporations	
annual statement.....	6245
conditions of admission into state	6245
designation of attorney for service of process.....	6246
filing of statements.....	6245
how admitted to state.....	6245
license	6245
license, revocation of....	6245- 6247
service of process on, procedure and fees for.....	6246
incorporation of, procedure....	6237
inspection by state auditor....	6243
payment of policies, regulation of	6240
penalties for fraudulent acts on applications for insurance....	6248
penalties for violation of act..	6251
proceedings to enjoin.....	6254
quorum	6256
refusal or revocation of license, action on.....	6247
regulations for conduct of business	6255
reincorporation of existing companies	6239
reinsurance by, how regulated.	6242
reserve or emergency fund, regulation of.....	6241
restraining operations of, when and how.....	6243
hearing on application.....	6244
service of process on commissioner of insurance.....	6246
state auditor to inspect.....	6243
transfer of risks.....	6242
what companies subject to act.	6238
Assessment life insurance	
see subtitle life insurance companies	6293- 6304
By-laws, making and amendment.	6256
Certificates of authority, procedure to procure.....	6118
Classification of.....	6111
Commissioner of insurance—See Insurance Commissioner, State	
Definition of.....	6111
Discrimination, penalty for..	6122, 6123
prohibited	6121
Domestic insurance corporations defined	6111
Duty to comply with laws of Montana	6115
Duty to report premiums collected in cities	5126

GENERAL INDEX.

INSURANCE CORPORATIONS

(Continued)

Examination by insurance commissioner	166
Fees for license	6112
Fire insurance	
agents must be residents of state	6169
companies must transact business through resident agent	6160
revocation of license for violation	6161
duties and powers of state auditor over	6166
foreign companies must write business through local agent	6164
penalties for violation of act	6168
reinsurance forbidden	6165
report of risks, how	6167
state auditor to investigate, when	6162
compensation	6163
Foreign insurance corporations	
conditions governing transaction of business in state	6149
agent to publish certain facts	6152
attorney to be designated by	6149
filing copy of charter and statement	6149
life insurance companies, requirements for admission	6262
mutual hail, cyclone and tornado insurance companies to comply with act	6184
requirements as to capital stock	6149
defined	6111
fee for filing documents	6116
penalty for violation of act	6116
renewal of statements and evidence, how	6151
surety companies—See subtitle surety companies	6206
surplus required of foreign fire or casualty mutual companies	6150
Fraternal societies exempt from act	6119, 6125
Funds, investment in irrigation district bonds	6127
Hail insurance—See subtitle mutual fire and other insurance of farm property	6170—6184
Investigation by insurance commissioner	6126
Investment of funds in irrigation district bonds	6127
Irrigation district bonds, investment in	6127
License fees	6112
Licenses	
agent's license, issuance, expiration, penalty	6118
expiration of insurance company's license	6114
issuance in duplicate	6113
payment at time of filing annual statement	6117

INSURANCE CORPORATIONS

(Continued)

Licenses (continued)	
penalty for doing business without	6117
revocation of	6124, 6161
Life insurance companies	
agents, inducements to insure forbidden	6287
agents, penalty for misrepresentation	6290, 6292
annual statement blanks, furnishing of	6275
annual statements, contents and filing	6273
authority of state auditor	6273
appointment of attorney for service of process	6266
assessment life companies	
annual statement, contents of	6299
fee for filing	6299
verification by experts	6300
articles of incorporation, contents and filing	6294
auditor to approve	6257
filing of	6295
assessment notices	6297
attorney-general to approve articles	6257
directors, election and term	6296
examination by auditor	6301
failure to comply with law, procedure on dissolution, when	6302
fees payable by	6304
foreign corporations, conditions of admission to state	6303
foreign corporations, designation of agent for service of process	6303
foreign corporations, service of process	6303
fees for service	6303
incorporation of, when	6293
license, procedure to revoke	6304
surplus guaranty fund, investment of	6298
bonds of officers	6271
certificate of authority, issuance and terms	6276
collection of interest on securities	6263
contingency reserve, maintenance of	6280
contributions for political purposes prohibited	6285
penalty for violation of act by officers	6285
privilege of witnesses	6285
default in payment of premiums, result of	6282
deposit of securities with auditor	6261
deposit, return by state auditor, when	6264
deposited securities, collection of interest on	6263
directors, number of	6289

GENERAL INDEX.

INSURANCE CORPORATIONS

(Continued)

Life insurance companies (continued)	
duration of corporations.....	6288
existing companies, compliance with law.....	6278
foreign companies, requirements concerning	6262
certificate of deposit of securities	6262
fraternal associations not within act.....	6284
funds, regulation of investment incorporation of, procedure....	6269
increase of capital stock, certificate to be filed.....	6257
investment of funds, how regulated	6272
misrepresentation by, forbidden action to recover fine.....	6269
penalty for.....	6290
mutual companies	6292
accounting of surplus.....	6291
bond of officers.....	6279
deposit by.....	6271
minimum number of applications	6261
name of.....	6259
name of.....	6145
net value of policies, state auditor to ascertain.....	6257
employment of actuary.....	6261
standard of valuations.....	6261
notes in payment of stock, requirements	6260
offering inducements to insure forbidden	6287
paid-up or extended insurance, when	6282
policyholders to select manner of apportionment of surplus..	6281
proceedings to revoke license, when instituted.....	6304
processes, fee for service.....	6266
prohibition against certain contributions and acts.....	6285
publication and contents of auditor's certificate.....	6267
real estate holdings, regulation of	6270
rebating by, forbidden, penalties	6286
revocation of certificate.....	6286
renewal of certificates for foreign companies.....	6274
renewal of corporate existence	6288
reserve requirements	6280
return of deposit by state auditor, when.....	6264
scope of act, to what companies applicable	6277
securities, change of.....	6261
collection of interest on....	6263
return by state auditor.....	6264
valuation of.....	6265

INSURANCE CORPORATIONS

(Continued)

Life insurance companies (continued)	
service of process.....	6266
fee for.....	6266
stock companies, organization of amount of subscribed capital	6258
investment of capital.....	6258
surplus, policyholders to select manner of apportionment....	6281
term, duration and renewal....	6288
valuation of policies, how ascertained	6261
valuation of securities.....	6265
vouchers for expenditures....	6268
waiver of law forbidden.....	6283
withdrawal of assessed valuation	6261
Mutual companies, requirements for commencing business....	6131
see also subtitle stock and mutual insurance other than life	
Mutual hail and fire insurance	
application for insurance, requirements	6177
loss to be prorated, when....	6177
Mutual hail, fire and other insurance of farm property	
actions against members of company	6180
annual statement.....	6181
articles of incorporation, contents and record.....	6171
bond of officers.....	6174
cancellation of certificates....	6182
certificate of authority, issuance	6183
directors	6172
duty of insured in case of loss	6178
examination of.....	6183
fee for.....	6183
foreign mutual hail, cyclone and tornado insurance, regulation of.....	6184
foreign mutuals to comply with state laws.....	6184
formation of company.....	6170
incorporation of company.....	6171
liability of members.....	6177
losses, appraisalment.....	6178
losses, procedure to adjust....	6178
name, similarity in, prohibited.	6171
obligations, when due.....	6179
officers	6173
policies, on what issued.....	6177
powers of.....	6175
suits against members, when..	6180
who may become member.....	6176
who may form company.....	6170
withdrawal of members.....	6182
Mutual hail insurance	
see subtitle mutual fire and other insurance of farm property	6170-6184
annual statement.....	6196
penalty for failure to make	6197

GENERAL INDEX.

INSURANCE CORPORATIONS

(Continued)

Mutual hail insurance (continued)	
applications required before issuance of policies.....	6194
articles of incorporation	
amendment, how.....	6202
certified copies as evidence..	6188
contents of.....	6186
execution and filing.....	6187
fee for filing.....	6189
preparation of.....	6186
by-laws, adoption of.....	6190
binding on members.....	6192
contents of.....	6191
directors.....	6193
dividends forbidden.....	6200
existing laws not affected.....	6205
formation of companies.....	6185
general insurance laws not applicable.....	6204
insurance in cities forbidden..	6198
license not required.....	6203
may commence business, when..	6194
minimum aggregate of insurance.....	6195
officers.....	6193
profits forbidden.....	6200
property not to be insured, where.....	6199
voting of members.....	6201
winding up of affairs, when....	6195
Organization, investigation by insurance commissioner.....	6126
Penalty for collecting premiums without license.....	6117
Penalty for violation of law....	6122
Penalty for violation of law by agent.....	6123
Policies, condition of issuance....	6194
Powers of companies other than life.....	6136
Proceedings to enjoin.....	6254
Publication of annual statement..	6120
Quorum.....	6256
Regulations for conduct of business.....	6255
Revocation of license, when.....	6124
Rural insurance—See subtitle mutual rural insurance	
Stock and mutual insurance other than life	
accident insurance, power to write.....	6136
advertisement by agents, regulated.....	6152
annual statement, contents and renewal of.....	6146, 6151
must show what.....	6148
approval of articles of incorporation.....	6129
assessments, regulation of....	6144
auditor may demand report....	6147
automobile insurance, power to write.....	6136
boiler insurance, power to write	6136
books for stock subscription to be opened, how.....	6132

INSURANCE CORPORATIONS

(Continued)

Stock and mutual insurance other than life (continued)	
bottomry and respondentia, loans on.....	6136
burglary insurance.....	6136
capital stock	
amount of.....	6130
number of shares.....	6130
payment of.....	6130
security of notes.....	6130
casualty insurance.....	6136
certificate of authority to do business.....	6135
combinations of different classes permitted.....	6137
construction of act relating to powers.....	6137, 6138
deficiency in mutual companies, how supplied.....	6154
deficiency in paid-up capital stock, how supplied.....	6153
deposit of security for policies	6155
directors, number and election..	6133
dividends, how made.....	6141
examination and certificate by state auditor.....	6135
fidelity insurance, power to write.....	6136
fire companies	
agents must be residents of state.....	6169
license, when revoked.....	6161
licensed resident agent to transact business.....	6160
must write business through local agent.....	6164
exception.....	6164
penalty for violation of act	6168
report of risks.....	6167
state auditor to inspect..	6162, 6166
transfers of risks to unauthorized companies forbidden..	6165
fire insurance, power to write..	6136
foreign companies, requirements	
as to paid-up capital.....	6149
charter and statement to be filed by.....	6149
deposit of securities by....	6149
designation of attorney for service of process.....	6149
publication of statements by agent.....	6152
requirement as to investment of capital.....	6149
foreign mutual fire and casualty companies, requirement as to surplus.....	6150
health insurance, power to write	6136
how organized.....	6128
increase of stock, certificate on	6140
investment of funds, how..	6127, 6134
kinds of insurance that may be written.....	6136
losses, assessments to pay.....	6144
marine insurance.....	6136

GENERAL INDEX.

INSURANCE CORPORATIONS

(Continued)

Stock and mutual insurance other than life (continued)	
mutual benefit companies not prohibited, limitations.....	6159
mutual insurance, notes for insurance	6131
mutual insurance, regulation of entry of business.....	6131
name to express character of company	6145
notes given for capital stock..	6143
notes in addition to premiums	6143
notice of intention and certificate	6128
organization of corporation for insurance other than life....	6128
other insurance.....	6136
permission to commence business, how granted.....	6135
plate glass insurance, power to write	6136
policies, how made.....	6139
powers of.....	6136
printed forms to be furnished..	6157
profits, how estimated.....	6141
publication of certificate by....	6156
real estate, limitations on holding and conveyance.....	6142
reinsurance in unauthorized company forbidden.....	6165
state auditor to examine.....	6166
restriction on amount of liability	6136
act not to prohibit combined transaction of life and health insurance.....	6138
construction of act.....	6137, 6138
state auditor to furnish printed forms	6157
statement, further contents of..	6148
stock and mutual plans not to be united.....	6158
stock subscription books, opening of.....	6132
theft insurance.....	6136
title and credit insurance, power to write.....	6136
Surety companies	
actions against, for failure to furnish bond.....	6233
admitted into state, how.....	6206
agent, penalty for violation of law	6219
agents, certificate of authority.	6218
agents, who deemed.....	6217
annual statement....	6209, 6214, 6225
appeals to supreme court.....	6233
appointment of attorney for service of process.....	6212
bonds, power to execute.....	6207
capital stock, requirements concerning	6216
cost of bond to be allowed, when	6228
deposit of certain statements with commissioner of insurance	6211

INSURANCE CORPORATIONS

(Continued)

Surety companies (continued)	
discrimination by foreign companies forbidden.....	6230
estoppel to deny corporate power	6227
examination of.....	6220
execution of official bonds by..	6207
expenses of examination, how paid	6221
fees for filing papers.....	6222, 6223
foreign companies	
admitted to state, how.....	6210
agents not to act for, when..	6216
agents, penalty for acting in violation law.....	6219
agents to procure certificate..	6218
agents, who deemed.....	6217
annual statement by.....	6214
appointment of attorney for service of process.....	6212
certificate as to value of securities	6216
deposit of articles and statement with commissioner of insurance	6211
duty to provide bonds without discrimination.....	6230
procedure on refusal.....	6231
license	6215
license to do business.....	6211
service of process.....	6213
foreign surety companies, admission of.....	6206
indemnity to companies forbidden, when.....	6234
penalty for noncompliance..	6232
penalty for violation of act..	6235
insurance commissioner to examine affairs.....	6220
laws applicable to proceedings against	6233
license, revocation of.....	6221
limit of liability to be incurred	6226
official bonds, execution of....	6207
ordered to cease business, when	6225
penalty for refusal to comply with judgment.....	6232
proceedings on refusal of company to furnish bond.....	6231
public officers may furnish individual or surety bond.....	6236
refusal to furnish bond, procedure on.....	6231
released from liability, how...	6208
report of risks and reserve fund	6225
reserve for reinsurance.....	6224
return of deposits to.....	6229
revocation of license, when and how	6221
service of process, procedure..	6213
statement to commissioner of insurance	6209
taxes required of.....	6222, 6223
Taxation of—See Taxation..	2111, 2112
Title insurance companies—See Corporations	6345- 6354

GENERAL INDEX.

INSURRECTION

- Governor may declare, when..... 11666
- revocation of proclamation..... 11667
- Resisting process after county de-
clared in..... 11292

INTELLIGENCE OFFICE

- License of..... 2434

INTEMPERANCE

- Ground for divorce, defined..... 5748

INTENT

- Assault, possession of deadly
weapons..... 11354
- Drunkenness, jury may consider. 10728
- How manifest..... 10727
- Not essential to violation of law. 10713
- Presumption as to..... 10606
- To defraud, what constitutes.... 10714
- Union of act and intent to consti-
tute crime..... 10726

INTENTION

- See Contracts.....7527- 7531

INTEREST

- Acceptance, principal waives.... 8665
- Annual rate..... 7724
- Application of payments to..... 7430
- Banks not to exceed lawful rates 6064
- Becomes part of principal, when.. 7728
- Bequests of, when payable..... 7060
- Defined..... 7723
- Discretionary with jury, when.... 8663
- Effect of payment as new promise 9062
- Foreclosure for, at different times 9469
- Insurable interest—See Insurance
.....8170- 8182
- Legal interest..... 7725
- Loan presumed to be on..... 7722
- Not allowable to claimants of
escheats..... 9962
- On
 - claims against estates..... 10174
 - county warrants..... 4625
 - damages, in eminent domain... 9945
 - disbursements, in partition
suits..... 9575
 - state warrants..... 180
- Persons recovering damages may
receive..... 8662
- Rate
 - allowed on agreement..... 7726
 - allowed pawnbrokers..... 11186
 - limited by contract, chargeable,
when..... 8664
- on
 - contracts, computation of.... 7725
 - delinquent taxes..... 2221
 - judgments..... 7729
 - legacies..... 7063
 - registered state warrants.... 180
- Recoverable with jury, when.... 8663
- Regulation of rates chargeable by
pawnbrokers and junk-dealers.. 4186
- wage-brokers..... 4177
- Running of, stopped by offer of
performance..... 7450
- To be included in judgment..... 9806

INTEREST (Continued)

- Trustee may pay, when.....7897, 7912
- Usury, penalty for, actions to re-
cover..... 7727
- Waived by accepting whole prin-
cipal..... 8665

INTERESTS IN PROPERTY

- See Property.....6679- 6699

INTERPLEADER

- May be compelled, when..... 9087
- May be maintained, when..... 9087

INTERPRETATION

- Of
 - contracts—See Contracts..7526- 7552
 - grants against grantor..... 6852
 - grants, how..... 6849
 - wills—See Wills.....7016- 7050

INTERPRETERS

- Fees of..... 4946
- When used and how summoned.. 10538

INTERROGATORIES

- See Depositions 10643-10658, 12199-12212

INTERVENTION

- How made..... 9088
- Officers to prevent offenses, when 11635
- persons acting in aid, when jus-
tified..... 11636

INTESTACY

- Succession on death—See Succes-
sion.....7072- 7092

INTOXICATING LIQUORS

- Note:—In using the index of this
title, care should be taken to
consult both the alphabetical
arrangement under the sub-
title Act of 1921 conforming
to the Volstead Act, as well
as the alphabetical sequence
of the entire index.
- Abatement of nuisances—See sub-
title nuisances, abatement of
.....11123-11133
- Act an exercise of police power.. 11100
- Act of 1921 conforming to Vol-
stead act
 - act to enjoin nuisances..... 11067
 - advertisement of vehicles seized 11073
 - advertising forbidden...11062, 11063
 - exceptions..... 11062
 - alcohol, when excepted..... 11050
 - analyses by secretary of state.. 11051
 - articles not subject to act.... 11050
 - automobiles, regulation of seiz-
ure and sale..... 11073
 - bill of particulars..... 11078
 - bond required for permit..... 11052
 - bonded warehouses, storage in.. 11082
 - burden of proof in prosecutions 11079
 - carriers, records of shipment by 11058
 - oath..... 11058
 - unlawful to accept packages
with false statement..... 11060

GENERAL INDEX.

INTOXICATING LIQUORS (Continued)

Act of 1921 conforming to Volstead act (continued)	
citation for violation of act...	11054
hearing on.....	11054
revocation of permit.....	11054
common nuisance—See subtitle nuisance	
complaint for violation of act, form of.....	11071
compromise of actions.....	11079
confiscated liquor used for medicinal purposes.....	11074
copy of permits to be kept....	11056
damages, recovery for injury by intoxicated person.....	11065
definition of terms.....	11048
delivery, where deemed made by carrier.....	11077
denatured alcohol excepted....	11050
denatured rum excepted.....	11050
destruction of liquor seized...	11073
duty to notify carrier contents shipment	11059
effect of partial invalidity of act	11081
expense of analysis, how paid.	11082
false reports, penalty for making	11075
flavoring extracts permitted...	11050
injunction, issued, when.....	11067
injunctions, violation of, contempt	11069
how punished.....	11069
injury by intoxicated person, damages for.....	11065
intoxicating liquor defined.....	11048
joinder of offenses.....	11078
law enforcement fund, creation and use.....	11084
lien on premises.....	11066
lien to follow proceeds of sale..	11073
liquor defined.....	11048
manufacturers' labels, regulations governing.....	11057
medicinal preparations excepted	11050
medicinal purposes, use confiscated liquor for.....	11074
nonbeverage liquor, use permitted	11049
nuisances defined	
action to enjoin.....	11067
bond not required.....	11067
bond on order of abatement..	11067
forfeiture of lease for maintenance liquor on premises	11068
injunction	11067
lien on premises.....	11066
order of abatement.....	11067
penalty for maintaining....	11066
unlawful transportation and sale constitutes.....	11068
order for delivery when consignee not bona fide.....	11061
packages with false statements, acceptance unlawful.....	11060
patent medicines excepted....	11050
penalties for violation of act..	11075

INTOXICATING LIQUORS (Continued)

Act of 1921 conforming to Volstead act (continued)	
penalty for false reports.....	11075
permit to develop liquids, when and how granted.....	11082
permits	
bond for.....	11052
copy to be kept.....	11056
expiration of.....	11052
form of.....	11052
issuance of.....	11052
revocation of.....	11054
permits to manufacture excepted articles required..	11050
hearing by secretary of state	11050
limit on use of alcohol.....	11050
sale for beverage purposes, penalty for.....	11050
pharmacist's license, when revoked	11075
pharmacists' prescriptions, regulation of.....	11053
physician's license, when revoked	11075
physicians' permits, regulation of	11053
possession of liquor prima facie evidence of violation of act	11079
prescription books, druggists to keep	11053
preserved sweet cider excepted	11050
private dwellings defined.....	11071
property rights in, abolished..	11070
railroads, record of shipment by duty to notify of contents of shipment	11059
order for delivery when consignee not bona fide.....	11061
unlawful to accept package with false statement.....	11060
record of sales to be kept....	11055
record of shipment by carrier..	11058
records, inspection by prosecutor	11080
repealing clause.....	11086
revocation of permits by secretary of state.....	11051
citation and hearing.....	11054
review of action.....	11051
revocation of physicians' and druggists' licenses.....	11075
rules of pleading.....	11078
sale of articles for unlawful use forbidden	11063
sale of vehicles seized, procedure	11073
sales without permit, when prohibited	11049, 11052
exceptions	11052
scope of act.....	11086
search-warrant, form and execution of.....	11072
when and how issued.....	11071
seizure of liquor, regulation of	11073
self-incrimination not to excuse testifying	11076
exemptions	11076

GENERAL INDEX.

INTOXICATING LIQUORS (Continued)

Act of 1921 conforming to Volstead act (continued)	
service of summons on owner of property	11083
solicitation of orders forbidden	11064
special enforcement officer, appointment of	11085
oath	11085
removal	11085
storage in bonded warehouses, when permitted	11082
sweet cider excepted	11050
terms defined	11048
toilet preparations excepted	11050
traffic in liquor prohibited	11049
exceptions	11049
unlawful possession of, forbidden	11070
vehicles, regulation of seizure and sale	11073
vinegar excepted	11050
warehouse receipts, purchase and sale permitted	11049
warehouse, storage of liquor in	11082
wine for sacramental purposes, permit for	11052
use permitted	11049
witnesses, privileges of	11076
Agents not to act for breweries or liquor houses	11102
Alcohol, nonbeverage, permits for use	
action to cancel permit	11093
conviction violation of law to revoke permit	11092
existing statutes not repealed	11094
fee for recording permit	11090
lawful to sell and use, when	11088, 11089
recording permit	11088, 11089
revocation of permit	11092
scope of act	11094
secretary of state to record permit	11091
suits for revocation of permit	11093
to whom issued	11087
Attorney-general, duty to investigate and prosecute violations	11109
Clubs, restrictions on use of, in	11103
Competency of witnesses to prove certain facts	11111
Complaint not to state what	11111
Complaints by peace officers	11106
Confiscated liquors, disposal of	11105
County attorneys, duty to investigate and prosecute violations	11109, 11115
Dealing in, through agent, prohibited	11102
Destruction of liquor and property, when and how	11105
Disposal of liquor and fixtures on seizure	11105
District court, jurisdiction of	11122
Doctors' permits—See subtitle permits for physicians' use	
Duty to seize liquor	11106

INTOXICATING LIQUORS (Continued)

Employment of counsel to assist prosecuting attorney, when	11119
Fees of officers, of witnesses	11110
Fines and costs, lien on property	11108
premises may be sold to pay	11108
Hearing of return on warrant	11105
Jurisdiction of district courts	11122
Justices of the peace, powers of	11109
Lien of fine and costs, disposal of property	11108
Nonbeverage alcohol—See subtitle alcohol	
Nuisances, abatement of other buildings constituting	
actions, dismissal and costs	11127
bond, owner may give, when	11131
release of property	11131
terms of	11131
building defined	11123
closing of building, when and how	11129
county attorney to abate	11125
fees of officers	11129
finest and levy on building	11132
order of abatement, contents and entry	11129
penalty for violation of injunction	11128
person defined	11123
precedence of actions	11127
private dwellings, warrant not to issue, when	11125
proceeds of sale, how applied	11130
repealing clause	11133
sale of fixtures, when and how	11129
temporary injunction, when granted	11126
verification of complaint, when	11126
warrant to issue, when	11125
what buildings subject to	11124
Original packages not to be opened	11118
Peace officers to arrest offenders	11106
Peace officers to furnish evidence of violation	11116
Penalty for furnishing to inebriates at hospital	1455
Penalty for unlawful disposal of liquor by officers	11113
Permits for physicians' use and prescription	
druggists not to be compelled to handle	11098
federal permits valid in state	11098
penalties for violation of act	11099
for violation of federal act	11099
person defined	11095
physician defined	11096
physicians may deal in, when	11098
physicians may prescribe for medicinal use, when	11097
Person defined	11101
Physicians' permits—See subtitle permits for physicians' use	
Præcipe for subpoenas, when and by whom issued	11109

GENERAL INDEX.

INTOXICATING LIQUORS (Continued)

Private dwellings, regulation of search of.....	11104
Proceeds of liquor sold payable to school fund.....	11105
Public officers, removal of, for neglect of duty.....	11117
Punishment for misdemeanor....	11121
Receipt of money by public officers a felony, when.....	11114
Record of former conviction as evidence	11120
Removal of public officers for failure to perform duty, procedure	11117
Replevin of liquor and property forbidden	11107
Search-warrants	
fixtures, how disposed of.....	11105
hearing of return on.....	11105
issuance and execution, how..	11104
liquor seized, how disposed of..	11105
Seizure of, when and how.....	11104
Sheriff, duty to furnish evidence..	11116
Subpoenas for witnesses, issuance and service.....	11109
Testimony, filing in district court	11109
Use in mines forbidden.....	3530
Witnesses, fees of and duty to attend	11110
privileges of.....	11112

INTOXICATION

Acts by physicians endangering life	11193
As defense to crime, when.....	10728
Discharge of drivers for.....	1746
Drivers of vehicles containing explosives	2798
Injuries by intoxicated persons, acts to recover.....	11065
Of engineers and conductors forbidden	11253
Of telegraph operators forbidden	11253
Vagrants, when.....	11521

INVENTORY

By guardians, when and how returned	10422
By sheriff in attachments.....	9269
Of estates of decedents—See Probate Proceedings.....	10129-10139
Property taken on search-warrant copy to whom.....	12409
State property, duty to take.....	256

INVESTMENT

Of	
funds in hands of receivers....	9307
money by guardian.....	10431
moneys of estates.....	10306
proceeds of wards' estates....	10443

INVESTMENT COMMISSIONER, STATE—See Investment Companies

INVESTMENT COMPANIES

See also Banks and Banking. 6014- 6109	
Accounts, methods of keeping...	4042
Act, when effective.....	4055

INVESTMENT COMPANIES (Continued)

Advertising, conditions governing Agent	4044
defined	4031
permits for.....	4040
registration, fees.....	4040
Amendment of charter and by-laws	4039
Appeals to state board of examiners	4038
Consent to service of process....	4035
Definition of.....	4026, 4027
Depositions, power to take.....	4042
Disposal of fees.....	4050
Domestic, defined.....	4030
Effect of partial invalidity of act	4054
Examination	
and control of.....	4043
of papers.....	4036
Exceptions from act.....	4028
Fees, collection and disposal of..	4050
Foreign	
consent to service of process...	4035
defined	4030
Investment commission fund	
abolished	4051
transfer of funds.....	4052
Investment commissioner	
advertising, conditions governing	4044
control of companies.....	4043
creation of.....	4053
examination of company.....	4043
fee for examination.....	4043
permits by—See subtitle permits	
records open to inspection....	4046
state auditor, ex officio.....	4053
statements, issuance of.....	4036
stock sales and dividends, approval of.....	4047
Licenses—See subtitle permits	
Partial invalidity of act, effect of	4054
Penalty for	
false statements and entries....	4048
violation of act.....	4049
Permits	
appeals to state board of examiners	4038
application and fees for.....	4033
issuance of.....	4032
revocation of.....	4045
to stock-brokers.....	4037
verification of papers on application	4034
when withheld.....	4036
Process, service on foreign companies	4035
Proposed new contracts, filing of	4039
Receiver, appointment of.....	4045
Records open to inspection.....	4046
Revocation of permits.....	4045
Statement of companies, filing and fees	4041
Stock-broker	
defined	4029
permit to.....	4037

GENERAL INDEX.

INVESTMENT COMPANIES (Continued)

Stocks and bonds, regulation of sale	4047
Summons, service of.....	4035
What companies included....	4026, 4027
Witnesses, production of.....	4042

INVOLUNTARY MANSLAUGHTER

See Homicide.....	10963-10967
-------------------	-------------

IRRIGATION

See Carey Land Act Board...	1949- 1995
See Irrigation Districts	
See Irrigation Districts Under Control Public Service Commission	
See State Lands.....	1805- 1948
See Water and Water Rights.	7093- 7135

IRRIGATION COMMISSION, MONTANA

Creation of.....	3947
Duties of.....	3947
Exemptions from act.....	3951
Fees for issuance of permits....	3949
Interpretation of act.....	3952
Issuance permits for sale of water	3948
Permits	
penalty for sale of water without	3950
procedure to obtain.....	3948
Powers and duties.....	3948
State engineer to act for.....	3947
Water and water rights	
fees for issuance of permits...	3949
penalty for sale without permit	3950
permit to sell.....	3948
petition for right to sell.....	3948
regulation by.....	3948
supervision of sale.....	3948

IRRIGATION DISTRICTS

See Irrigation Commission, Montana	
See Irrigation Districts Under Control Public Service Commission	
Acreage, petition for determination, amount.....	7192
Administrative expense, commissioners to ascertain.....	7235
apportionment of tax on division of land.....	7235
lien of tax.....	7235
no levy against certain tracts..	7235
petition for confirmation acts of board	7235
power of court.....	7235
proviso and exception.....	7235
refund of taxes.....	7235
review of acts of commissioners	7235
topographical survey.....	7235
Annual levy by commissioners...	7235
Annual levy of assessments.....	7235
Annual report of commissioners, filing	7260
Appeals, consolidation of.....	7254
to supreme court, when.....	7194
Appointment of commissioners...	7169

IRRIGATION DISTRICTS (Continued)

Apportionment of water, how made	7202
Assessments, county commissioners to levy, when.....	7236
for maintenance pumping plants to pay bonds—See subtitle taxation	7232- 7250
when works partly in another state	7236
Bids for construction of works...	7195
Board of commissioners—See subtitle commissioners	
Bond commission, creation of....	7223
Bond of commissioners, when required	7170
Bonds	
assessment to pay—See subtitle taxation	7232- 7250
conditions of sale.....	7214
confirmation of proceedings by district court.....	7211
appeals to supreme court....	7211
costs of proceedings.....	7211
order of court approving proceedings	7211
petition, notice and hearing.	7211
rules of pleading applicable..	7211
denomination, interest and term	7212
disposition of proceeds.....	7215
funding, issuance authorized..	7226
disposition of proceeds.....	7231
lien of bond and special tax.	7229
lien of warrants on land....	7229
lien upon land.....	7228
prior lien, what constitutes..	7228
requirements as to issuance..	7227
sale of.....	7230
funds for payment to be kept distinct	7238
investment funds insurance corporations in.....	6127
lien of.....	7213
petition for issuance, procedure proceeds, how disposed of.....	7210
registration	7215
resolution declaring bonds available as legal investments..	7212
bonds legal investment and trust funds, etc.....	7216
certification by secretary of state	7225
certification of bonds as needed	7218
expenses, how defrayed.....	7221
form of secretary of state's certificate	7224
irrigation district bond commission created.....	7222
no expenditure without consent of commission.....	7223
provisions directory.....	7220
report of irrigation district bond commission, contents of	7219
sale of.....	7217
Boundaries of districts, how changed	7214
changed	7188

GENERAL INDEX.

IRRIGATION DISTRICTS (Con- tinued)

Change in area of districts, pro- cedure	7189
acreage, how determined.....	7190
acreage, petition for determina- tion	7191
appeals to supreme court.....	7194
decree fixing amount of acreage proceedings, decree and appeal	7192-7194
Change in boundaries, procedure	7188
Collection of taxes, how made...	7240
Commissioners	
annual report by.....	7260
as corporate authorities.....	7174
compensation	7173
election, when held.....	7176
how nominated.....	7185
interest in contracts forbidden	7173
organization and meetings.....	7171, 7172
organization of board.....	7176
penalty for violation of act.....	7173
plans for purchase of property.	7174
powers and duties.....	7174
qualifications and term.....	7170
term of office.....	7176
to apportion water.....	7202
vacancies, how filled.....	7177
Compensation of commissioners..	7173
Contracts for construction of work, how let.....	7195
County commissioners to levy as- sessments, when.....	7236
County treasurer	
custodian of district funds.....	7239
duties concerning bonds.....	7215
liability for keeping of funds..	7249
Court to	
disregard errors, when.....	7255
enter order establishing district	7169
make changes in proposed dis- trict, when.....	7169
Created, how.....	7167-7169
Debiture certificates, when and to whom issued.....	7243
Debt, limitation on power to incur	7208, 7251
Delinquent tax sales, how made..	7242
Determination of acreage.....	7190
Dissolution of districts, proceed- ings for.....	7253
District court to hear petition...	7169
Diversion of waters not author- ized, when.....	7198
Documents, where filed.....	7187
Duty to inspect books of irriga- tion districts.....	7260
Election	
canvass of.....	7182
conduct of.....	7181
hours of.....	7180
notice of.....	7178
oaths of officers.....	7179
qualifications of voters.....	7184
special, when called.....	7186
statement of result, contents and filing.....	7183

IRRIGATION DISTRICTS (Con- tinued)

Election of commissioners	
first election.....	7176
regular elections.....	7176
Election officers, appointment of.	7178
Election precincts, change of boundaries	7175
establishment of.....	7175
Election returns.....	7181
Errors, when disregarded by court	7255
Evidence of title for purpose of organization	7166
Exchange of water, procedure...	7206
Exclusion of land from district, procedure	7188
power and duties of district court	7188
order of court.....	7188
Exemption of property and bonds from taxation.....	7209
Extension of districts, procedure.	7189
Federal government, contracts with	7174
First election of commissioners..	7176
Funding bonds — See subtitle bonds	7226-7231
Funds, how expended.....	7239
Hearing on petition for organi- zation	7169
Hours of election.....	7180
How organized.....	7166
Indebtedness, limitation on.....	7208, 7251
Insurance funds, investment in bonds of.....	6127
Interpretation of act.....	7262
Lands	
how chargeable.....	7234
sold, subject to special assess- ments	7250
under irrigation from other sources, how included in dis- trict	7205
under irrigation not chargeable, when	7207
Leasing of waterworks, proced- ure	7199
bond of lessee.....	7199
Liability of officers for violation of duty.....	7256
Lien of bonds.....	7213
Limitation on debt-incurring power	7208
Limitation upon indebtedness...	7251
Mailing petition to nonresidents.	7168
Majority vote of commissioners necessary	7174
Meeting of commissioners, and quorum	7172
Navigation not to be impeded...	7197
Nomination of commissioners, how made	7185
Nonresidents, notice to, of petition	7168
Notice of election, appointment election officers.....	7178
Oath of election officers.....	7179
Order of court establishing, con- tents	7169

GENERAL INDEX.

IRRIGATION DISTRICTS (Continued)

Organization by public service commission.....	7264
Organized, how.....	7166
Payments, how authorized.....	7239
Petition for bonds, and action thereon.....	7210
Petition for determination of acreage, filing and contents..	7191
appeals to supreme court, how taken.....	7194
assent of secretary of interior, when necessary.....	7194
decree fixing amount of irrigable acreage.....	7193
proceedings upon filing.....	7192
rules of pleading applicable....	7192
Petition for organization contents and filing.....	7167
order and notice of hearing....	7168
Place of filing of documents when district in more than one county.....	7187
Power of commissioners to incur debt.....	7208
Powers and duties of commissioners.....	7174
Principal place of business.....	7171
Proof of notice.....	7168
Public service commission, organization of districts by.....	7264
Publication of petition for organization.....	7168
Pumping costs, how apportioned.	7234
Purchase of property by commissioners.....	7174
Purchase of water and water rights, when binding.....	7174
Qualification of voters.....	7184
Rates to be chargeable alike....	7234
Records to be kept by commissioners.....	7260
fee for examination.....	7260
form, how prescribed.....	7260
open for inspection.....	7260
ouster proceedings for failure to comply.....	7260
United States officer may inspect.....	7260
Reduction of water in case of shortage.....	7203
Regular election of commissioners, procedure.....	7176
Right of eminent domain not abridged.....	7197
Rights-of-way, how and when acquired.....	7196
Rules of pleading and practice...	7255
Sale of bonds, conditions.....	7214
Sale of land for delinquent taxes See subtitle taxation....	7242-7249
Sales of lands to include water..	7250
Saving clause as to districts being organized.....	7263
Secretary, salary of.....	7261
county treasurer to make monthly report to.....	7261

IRRIGATION DISTRICTS (Continued)

Secretary to commissioner, appointment.....	7171
Sinking fund creation, when.....	7232
investments.....	7232
Special election, how called and held.....	7186
State examiner to inspect books and accounts.....	7260
Substituting of water, procedure.	7206
Surplus in construction fund, transfer of.....	7257
Surplus water, how disposed of...	7204
Taxation added land to pay proportional share of bonds.....	7233
all lands chargeable alike.....	7234
annual levy.....	7235
assessment of tax to pay bonds.	7232
collection of taxes, procedure..	7240
commissioners to make annual levy.....	7232
conclusiveness of tax.....	7237
creation of sinking fund.....	7232
debenture certificates, assignment of.....	7244
how and when issued.....	7243
delinquent tax sales, disposition of proceeds.....	7243
delinquent tax sales, how made.	7242
exemption of property from....	7209
funds for payment of bonds to be kept distinct.....	7238
payment of interest by commissioners.....	7232
procedure on division of tracts.	7235
redemption of lands sold.....	7245
sale for delinquent taxes, duty of county treasurer.....	7248
sale of land by county commissioners when not redeemed..	7246
sale of land to county, procedure when not redeemed.....	7247
sinking fund investments.....	7232
transmission of funds from other counties.....	7241
Title of property, how vested...	7200
Transfer of funds, authority of commissioners.....	7258
United States, contracts with, for use of water.....	7174
Use of water, a public use.....	7201
Vacancies in commission, how filled.....	7177
qualifications of appointee.....	7177
Validation of outstanding warrants.....	7252
Vested rights to be preserved....	7197
Warrants, how paid.....	7249
Water, how apportioned.....	7202
Water rights not to be interfered with.....	7197
Who may organize.....	7166
Written consent, acknowledgment regarding.....	7259

GENERAL INDEX.

IRRIGATION DISTRICTS UNDER CONTROL PUBLIC SERVICE COMMISSION

Acreage, procedure for reduction.	4003
appeals to supreme court.....	4003
decree of court.....	4003
secretary of interior to assent, when	4003
Advertisement for bids for con- struction	3972
Annual administrative expenses determination of.....	3974
levy and collection of tax....	3974
Annual assessment, determining amount	3973
Appeals, consolidation of.....	3982
Appropriation of water by board of directors.....	3964
commission	3954
Board of directors—See subtitle directors	
Bond of	
contractor	3972
directors	3959, 3990
engineer, payment of pre- mium	4023
to accompany petition for or- ganization	3956
Bonds	
constitute legal investments...	3968
delivery to contractor in lieu of sale	3969
delivery to purchaser.....	3971
directors to adopt resolution...	3966
disposal of proceeds.....	3971
duty to assist in sale of.....	3954
form and terms.....	3968
judgment of court conclusive..	3967
liability of property.....	3970
lien of.....	3970
order of court to determine va- lidity	3967
appeals from.....	3967
payment of.....	3970
petition for issuance.....	3966
procedure for issuance.....	3966
procedure to determine validity	3967
sale of, procedure.....	3969
Boundaries, change of	
appeals	4002
filing of order.....	4002
hearing on petition.....	4002
notice of hearing.....	4002
order of court.....	4002
petition for, contents of.....	4002
procedure	4002
secretary of interior to assent, when	4003
Boundaries, extension of	
order of court.....	4003
petition for.....	4003
procedure	4003
reduction of acreage.....	4003
secretary of interior to assent, when	4003
Canvass of returns.....	3996
Certain rights preserved.....	4005

IRRIGATION DISTRICTS UNDER CONTROL PUBLIC SERVICE COMMISSION (Continued)

Certain works, not chargeable with tax.....	4015
Change of boundaries, procedure for	4002
Commission to aid in organizing districts	3955
Compensation of directors.....	3962
Consolidation of appeals.....	3982
Construction	
advertisement for bids.....	3972
fund, use of.....	3980
of works across streams and highways, procedure.....	4004
Contract	
for water by board of directors	3964
with owners for use of water..	4013
mutual rights.....	4013
Costs, apportionment of.....	3983
County treasurer	
custodian of funds.....	3977
liable for funds.....	3980
Debenture certificates, issuance of	3979
Debt, limit on power to incur...	3975
Delinquent tax sales, procedure..	3979
Directors	
appropriation of waters by....	3964
approval of contracts by.....	3964
bond of	3959, 3990
compensation	3962
designation of office.....	3960
duty to formulate general plan	3964
election of.....	3990
interest in contracts forbidden, penalty	3962
limitations on power to incur debt	3975
may contract with United States for water.....	3964
may submit proposal to electors	3990
meetings of.....	3960, 3961
when held.....	3961
nomination of candidates.....	3999
powers of.....	3964
qualifications of.....	3959
quorum	3961
record of proceedings.....	3961
secretary, appointment of.....	3960
surveys, how made.....	3964
term of office.....	3959
vacancies, how filled.....	3991
Dissolution of district, procedure.	4019
District engineer	
appointment	3963
compensation	3963
duties	3963
qualifications	3963
Districts declared public corpora- tions	3958
Drainage expense, how defrayed.	4018
Duties of commission concerning	
arid lands, irrigation of.....	3955
organization and management.	3954
Election	
of directors, when held.....	3990

GENERAL INDEX.

IRRIGATION DISTRICTS UNDER CONTROL PUBLIC SERVICE COMMISSION (Continued)

Election (continued)	
precincts, how and when estab- lished	3989
to accept act, procedure	4024
Elections	
ballots	3992
basis of votes	3998
canvass of returns	3996
clerk	3992
judges	3992
nomination candidates for di- rector	3999
notice and conduct of	3992
oaths, administration of	3993
polls, opening and closing	3994
qualifications of electors	3998
rejection of certificate, when	3996
returns	3995
special, how called and held	4000
statement of results	3997
voting, how conducted	3995
Employment assistants by public service commission	4022
Engineer's bond	4023
Exemption from repealing clause	4025
Existing districts not affected	4024
Expenses of	
engineer, how paid	3956
public service commission, how paid	4021
Extension of boundaries, proced- ure for	4003
Filing papers when lands in more than one county	4001
Final report of commission	
contents	3965
passage and filing	3965
Findings of directors conclusive, when	3976
Funds, enumeration of	3980
Generation of power	4016
Hearing of petition for creation	3958
Inclusion of lands under irriga- tion, procedure	4012
Indebtedness	
limitations on	3975
power of directors to incur	3975
Interest of directors in contracts forbidden	3962
Interference with certain interests forbidden	4006
Investment bond sinking funds	3973
Irrigation arid lands, duties of commissions concerning	3955
Leasing of works, procedure	4007
Legal title to property vests, when	4008
Liberal construction of act	4020
Lien of bonds	3970
Map to accompany petition for or- ganization	3956
Meetings of directors	3960, 3961
Navigation not to be impeded	4005
Nomination of candidates for di- rectors	3999

IRRIGATION DISTRICTS UNDER CONTROL PUBLIC SERVICE COMMISSION (Continued)

Notice of hearing on petition for creation	3957
Oaths, administration of	3993
Order of court creating district	3958
Organization of districts by	3958
Other rights preserved	4005
Penalty for violation of duties by officers	3984
Petition for organization	
adjournment of hearing	3958
amendments	3958
bond to accompany	3956
certificate of clerk as evidence	3957
certificate of estimate and rec- ommendations	3956
changes in proposed district	3958
contents	3956
copy of order, to whom trans- mitted	3958
dismissal of	3958
district court to consider esti- mate	3956
duty of clerk of court	3956
examination and report	3956
filing	3956
findings and order conclusive	3958
hearing of	3958
map to accompany	3956
notice of hearing on	3957
order establishing district	3958
order of court	3958
preliminary examination	3956
publication notice of hearing	3957
report of engineer	3956
subpoena and examination mem- bers of commission	3956
Plan of reclamation, passage and adoption	3965
Pleading and practice, rules of	3983
Polls, opening and closing	3994
Power, generation of	4016
Preliminary examination and re- port on organization	3956
President of board, election of	3990
Procedure to determine validity of bonds—See subtitle bonds	3966, 3967
Public service commission to sup- ervise	3953
Pumping projects, apportionment costs	4017
Qualifications of	
directors	3959
electors	3998
Quorum	3961
Records subject to examination	3988
Redemption of lands from tax sales	3979
Reduction	
of acreage, procedure	4003
on shortage of water	4011
Resolution for issuance of bonds	3966
Right-of-way not to be paid for, when	4004
Rules of pleading and practice ap- plicable	3983

GENERAL INDEX.

IRRIGATION DISTRICTS UNDER CONTROL PUBLIC SERVICE COMMISSION (Continued)

Sale of bonds, procedure.....	3969
Secretary, election and compensation	3960
Secretary of board, election of..	3990
Sinking fund, creation of.....	3973
Special elections, how called and held	4000
State lands, how included.....	4014
power of land board.....	4014
Statement of results of election..	3997
Supervisory powers of commission	3953, 3954

Taxes

certain works not chargeable with	4015
debenture certificates, issuance of	3979
delinquent tax sales, how made for annual administrative expense, levy for collection....	3974
redemption of lands.....	3979
sale of lands to county.....	3979
when lands in more than one county	3978
Tax-levy	3973

Transfer of

lands to include water.....	3981
moneys from construction fund powers of directors concerning	3986
Use of water public use.....	4009
Vacancies in directors, how filled	3991
Validity of existing districts and bonds not affected.....	4024
Voting, how conducted.....	3995
Warrants, from what fund payable	3980
Water	
apportionment of.....	4010
contract with owners for use of public use.....	4009
reduction on shortage.....	4011
Written consent, acknowledgment and filing.....	3987

IRRIGATION DITCHES

Obstructing or taking water from	11467
----------------------------------	-------

ISLANDS

Ownership	
in navigable streams.....	6822
in unnavigable streams.....	6823
when formed by division of streams	6824

ISOLATION HOSPITALS

For treatment of venereal diseases —See Venereal Diseases.....	2567
Maintenance by counties, cities and towns.....	2469, 2470

ISSUES

Court may direct order of trial of	9328
Definition	9323
How brought to trial.....	9331
In	
partition suits, how tried.....	9526
probate proceedings, how tried	10368, 10369

ISSUES (Continued)

In (continued)	
proceedings against executors, etc., for suspension.....	10126
trial	10126
prosecution for bastardy.....	12272
In justice courts, kinds of and how tried.....	9671- 9675
Meaning in certain remainders...	6854
Of fact	
how raised.....	9326
how tried.....	9327
Of fact, arise how.....	11928
Of law	
how raised.....	9324
how tried.....	9325
in probate proceedings.....	10368
judgment on.....	9373
proceedings after determination	9373
to be tried first.....	9327
verdict	9364
On counterclaims, how tried....	9329
how tried.....	11929
Order of disposal on calendar....	11934
Parties may bring to trial.....	9331
Special, how tried.....	9010
Trial by referees.....	9374

ITEMS

Of account, how pleaded.....	9167
------------------------------	------

ITINERANT VENDORS

License—See License.....	2421- 2429
Scales to be adjusted, penalty....	4253

JACKS

See Stallions and Jacks.....	3357- 3373
License of keeper.....	2437

JAILERS

Duty to admit attorneys to see clients	8990
Hours of labor.....	3070
Penalty for failure to receive persons arrested.....	10916
Rescues and escapes—See Rescues and Escapes.....	10864-10872

JAILS

At towns other than county seat	12467
Authority of county commissioners concerning.....	12486
Board of charities and reform to investigate	331
County and city to receive prisoners committed under military process.....	1394
County commissioners may prescribe rules.....	12484, 12485
County jails, by whom kept.....	12468
for what purposes used.....	12468
rooms required in.....	12469
County jails must be built.....	12466
Destroying or injuring, punishment	11486
Food and clothing, how provided	12482
Guard, when employed.....	12481
Inhumanity to prisoners forbidden.....	10922

GENERAL INDEX.

TAILS (Continued)

Jail of contiguous county	
keeper to receive prisoners,	
when	12475
prisoners to be returned to prop-	
er county, when	12477
revocation of use, how and when	12476
to be used, when	12474
Labor of prisoners on public	
works	12484
Maintenance of prisoners, compen-	
sation	12482
Officers permitting escapes	10869
persons assisting	10870, 10871
Other jails authorized	12467
Prisoners	
may be removed in case of con-	
tagious diseases, procedure..	12479
may be removed in case of fire	12478
may be required to labor	12484
must be actually confined	12471
on civil process, duty to receive,	
when	12483
to be classified, how	12469, 12470
Procedure to produce prisoners in	
another county	12432
Regulations for performance of	
labor	12435
Rescue of prisoners	10864
Security to be given for expenses,	
when	12483
Segregation of sexes	12470
Service of papers on jailer for	
prisoners	12480
Serving out fine, rate of	1394
Sheriff, answerable for safe-keep-	
ing of prisoners	12473
duty to provide food and cloth-	
ing	12482
to certify list of prisoners, when	12487
to receive all persons committed	12482
to receive prisoners	12472
Use as state prison, when	12459

JANITORS

Senate and house of representa-	
tives	62, 63- 76

JAPANESE

Marriage with whites void	5702
-------------------------------------	------

JEFFERSON COUNTY

Boundaries and county seat	4326
--------------------------------------	------

JEOPARDY

Defense to prosecution	11612
Once in, form of plea	11908
plea of	11907

JOINDER

Of	
causes of action, when	9130
parties to actions—See Parties	
.	9077- 9085

JOINT AND SEVERAL

Promise presumed, when	7550
----------------------------------	------

JOINT AUTHORITY

Construction of words giving	14
How construed	10713

JOINT DEBTORS

Release of, when effected	7466
-------------------------------------	------

JOINT DEBTORS, PROCEEDINGS AGAINST

Answer, filing and contents	9765
Debtor may compromise, effect of	9768
Discharge of debtor	
contribution, when compelled..	9770
effect of	9769
In justice court	9684
Issues, when tried	9767
Parties may be summoned after	
judgment, when	9762
Pleadings, what constitute	9766
Summons	
affidavit to accompany	9764
contents and service	9763
Verdict, for what rendered	9767

JOINT DEFENDANTS—See Code-fendants

JOINT INTERESTS

In property defined	6680
-------------------------------	------

JOINT TENANTS

See also Partition	
See also Tenants in Common	
See Tenants	
Actions against, for waste	9475
Husband and wife as	5789
May join in actions	9082- 9085
May sue cotenant	9085- 9091

JOURNALS

Senate and house	
distribution of	135
how authenticated	68

JUDGES

See District Courts and District	
Judges	
See also Supreme Court	
Adjournment for absence of, when	
.	8852, 8853
Affidavits and acknowledgments,	
power to take	8875
certificate as to authority jus-	
tice of peace	8876
Capsules, duty to inspect	8924
Change in place of holding court,	
when	8854
parties to appear at appointed	
place	8855
Disqualification—See Actions 9098,	9099
Disqualification, when	8868
Duty in construing statutes and	
instruments	10519
Exemptions	9428
Grand juries, when and how em-	
paneled—See Juries	8918- 8921
Juries, drawing and summoning—	
See Juries	8902- 8910
May	
be witnesses, when	10537
solemnize marriages	5710
take acknowledgments	6905
Not to practice after term, when	8871
Not to practice law, where	8869
Number of, in judicial districts..	8813

GENERAL INDEX.

JUDGES (Continued)

Partner practicing law forbidden.	8870
Power	
as to conduct of proceedings...	8873
out of court.....	8872
To punish for contempt.....	8874

JUDGES OF DISTRICT COURT—

See District Judges

JUDGES OF ELECTION

See Elections.....	587— 597
--------------------	----------

JUDGMENT

Actions upon, time for commencement	9028— 9030
Against	
cities and towns	
funding of.....	5085
how paid.....	5084
counties, how paid.....	4450
estates, effect of.....	10185—10187
railroads, lien of priorities.....	6527
sheriff for official acts, effect of	9824
surety does not alter relations	8199
Agreed statement, judgment on... .	9872— 9874
Amount, how stated.....	4285
Appeals to supreme court from	
effect of reversal or modification	9752
how taken.....	9733
time for taking.....	9732
what taken.....	9731
when taken.....	9731
Attached, how.....	9262
By	
consent of plaintiff, effect of..	9770
default, in justice courts.....	9664
against defendant on demurrer	9665
default, in what cases entered.. . . .	9134, 9322
proof, when taken by court..	9322
Claim and delivery actions, how given	9406
Concerning homestead in divorce actions	5777— 5779
Conclusiveness, annulling marriages	5733
Conclusiveness of.....	10558
Confession by partnership, partner has no authority to make....	7998
Confession of judgment without action—See Confession of Judgment	9868— 9871
Costs—See Costs.....	9786— 9815
duty of court to render.....	9321
Counterclaim, judgment on.....	9405
Court may relieve against, when..	9187
Death of party after verdict.....	9408
Default judgment	
when appealable to district court	9755
when entered.....	9322
Defendant	
must demand, when.....	9177
to demand in answer, when....	9148
Deficiency	
in foreclosure of mortgages....	9467

JUDGMENT (Continued)

Deficiency (continued)	
on mortgages	
given by estates.....	10255
of ward's property.....	10427
Defined	9313
Dismissing action, when entered	9317
Dismissing complaint, effect of...	9320
Disobedience constitutes contempt	9908
Divorce not granted, when.....	10685
Docket	
contents of.....	9411
open for inspection.....	9412
Effect of	
decrees in water-right cases....	7128
discharge of person in prison..	9884
foreign judgments.....	10565
judgment or final order.....	10558
Entry, time for.....	9403
Executions—See Executions	
Failure to pay by insurance companies, revocation of license	6168
Federal courts, lien of judgment	9415
Final and conclusive, when.....	10558
For	
costs, court to render, when....	9321
delivery of personal property..	8712
excess counterclaim.....	9405
or against married women....	9319
possession of or title to real property, when.....	8711
Former judgment, what deemed adjudged in.....	10561
Fractions of cent rejected in computing	4285
How	
enforced	9420
after six years.....	9421
impeached	10566
pleaded	9169
reviewable by supreme court..	9729
In actions for foreclosure of logger's lien.....	8333
In criminal actions	
See also Execution of Judgment	12087—12104
acquittal, on appeal to district court, discharge.....	12340
affirmance of execution on....	12130
after amendment of information or indictment.....	11872
aggravation or mitigation, hearing	12067, 12068
appeal, extent of review.....	12126
appeal, technical errors disregarded	12125
arraignment of defendant for..	12064
arrest of—See Arrest of Judgment	12051—12054
bastardy	12273
bench-warrant to issue, when..	12060
by confession, court to declare punishment	12028
circumstances in mitigation, how presented.....	12068
confession, under false personation	11407
conviction, removal from office	11699
costs, imprisonment for.....	12069

GENERAL INDEX.

JUDGMENT (Continued)

In criminal actions (continued)	
court	
may arrest, when.....	12052
may consider circumstances in mitigation or aggravation	12067
by what proof presented..	12068
to appoint time for pronouncing	12055
to determine degree, when...	12056
defendant	
discharged on reversal.....	12129
failing to appear when on bail, procedure.....	12059
may show cause why judgment should not be pronounced	12065
on bail, bench-warrant....	12060
to be informed of what, prior to	12064
in custody, how produced....	12058
defendant's presence.....	12057
discharge of	
defendant on reversal of.....	12129
pauper prisoner, when.....	12071
prisoner in other cases, when	12072
effect of arrest.....	12053
entry of.....	12074
execution of—See Execution of Judgment	12087-12104
fine, a lien on real property...	12073
fine and costs	
discharge from imprisonment, when	12072
duration of imprisonment...	12069
pauper's oath.....	12071
fine, deposit applied to.....	12156
for fine, on appeal to district court, how executed.....	12341
form of bench-warrant for production of defendant.....	12061
former conviction or acquittal, effect of.....	11612, 12002
how entered upon conviction....	12074
how pleaded.....	11855
impeachment	
conviction, how pronounced..	11680, 11681
nature of.....	11682
imprisonment, hard labor.....	12092
imprisonment, on appeal to district court, how executed....	12341
in justice and police courts—See Justice and Police Courts	12326-12332
interest of justice or constable in, forbidden	10860
judgment-roll, what constitutes	12074
jurisdiction ceases after remittitur	12132
justices' courts, rendition.12326-12332	
time for rendition.....	12332
lien of judgment for fine.....	12073
may direct imprisonment to satisfy fine and costs.....	12069
motion in arrest of, on what founded	12051

JUDGMENT (Continued)

In criminal actions (continued)	
of	
appellate court, how entered	12131
imprisonment in justice and police courts, how executed	12341
suspension, in impeachment proceedings	11683
on	
allowance of demurrer when bar to another prosecution	11902
bail bond, lien.....	12165
demurrer to information....	11901
plea of former judgment—See Plea	11907-11915
presence of defendant necessary, when	12057
procedure on showing of insanity	12065
pronouncing, no cause shown..	12066
pronouncing, time for.....	12055
prosecutor to pay costs, when rendered	12070
execution	12070
remittitur to clerk of court....	12131
roll, what constitutes.....	12074
supreme court, entry.....	12131
time for pronouncing.....	12055
to be executed on affirmance by appellate court.....	12130
to be rendered if no cause shown	12066
to pay fine constitutes a lien...	12073
warrant for production of defendant, how served....	12062
arrest of defendant.....	12063
what causes may be shown against	12065
when rendered in justice and police courts.....	12332
when to be deferred.....	12065
In district courts	
clerk to enter, when.....	9403
counterclaim existing, plaintiff's demand, judgment, how given	9405
death of party before verdict, judgment, how entered....	9408
lien, extent of.....	9408
docket, contents of.....	9411
docket open for inspection....	9412
docketing of.....	9410
judgment-book kept by clerk..	9407
judgment-roll, contents of.....	9409
lien	
extent and duration of.....	9410
of judgments of federal court	9415
on filing of transcript in county	9413
reserved cases brought up for argument, when.....	9404
satisfaction, how made.....	9414
time for entry.....	9403
time for taking appeal.....	9732
transcript to be filed in another county, effect.....	9413
In divorce actions	
effect of.....	5735
modification of.....	5769
In forcible entry and detainer suits, how entered.....	9901

GENERAL INDEX.

JUDGMENT (Continued)

In justice or police courts abstract	
filing and docketing.....	9690
form of.....	9689
actions against joint debtors...	9684
after trial by court, when entered ..	9682
against joint debtors.....	9684
by confession, how and when entered	9688
by default.....	9664, 9665
on defendant's failure to appear ..	9664
setting aside.....	9647
costs to be included in.....	9688
in claim and delivery actions..	9683
lien of.....	9692
of dismissal, when entered.....	9680
on	
counterclaim ..	9686
verdict, when entered.....	9681
when recovery exceeds jurisdiction ..	9685
In particular proceedings	
agreed statement.....	9872, 9873
certiorari ..	9844
copy, to whom sent.....	9845
claim against estate, effect of..	10185
claim and delivery in alternative ..	9406
confession of.....	9868-9871
contempt proceedings.....	9917
debtor not summoned.....	9762
disbarment proceedings.....	8973
dower ..	10163-10167
escheated estates.....	9961
forcible entry and detainer....	9901
by default.....	9896
persons bound by.....	9892
foreclosure proceedings, conclusiveness ..	9467
mandamus ..	9858
quieting title.....	9490
sheriff's sureties.....	9824
sole trader.....	9986
special proceedings.....	9835
In partition suits	
See Partition.....	9516-9575
In probate proceedings	
against	
property of testator, when not lien ..	10187
testator during life, effect...	10186
deficiency	
foreclosure proceedings.....	10255
how enforced.....	10368
on	
claims against estates, effect of ..	10185
contest of probate.....	10034
Index of, by county clerk.....	4799
Interest and costs included in....	9806
Interest on, rate.....	7729
Inures to surety, when.....	9830
Judgment-book ..	9407
Judgment-roll	
contents and filing.....	9409
papers constituting.....	9409

JUDGMENT (Continued)

Jurisdiction necessary to sustain.	10567
Justices' judgments in other states, how proved....	10571, 10572
Liability of school trustees on...	1017
Lien of.....	9410, 9413
Lien of, in federal courts.....	9415
Married women, judgments, how rendered ..	9319
May	
be against one party and action proved as to others.....	9315
be given for or against one of several parties ..	9314
distinguished between principal debtor and sureties.....	9314
Money judgments	
how enforced.....	9420
undertaking on appeal to supreme court from.....	9735
Nonsuit, when.....	9317
Not	
bar to new action, when.....	9320
lien on real property of estate, when ..	10187
reversal for want of findings, when ..	9369
to be reversed by reason of errors, when.....	9191
Of federal court, lien, when....	9415
Of nullity of marriage, effect of	5733
On	
confession ..	9870
counterclaim, when entered....	9140
dismissal	
costs on.....	9321
effect of.....	9320
nonresident ..	9808
when entered.....	9317
findings of referee.....	9384
merits, when rendered.....	9318
Other judicial orders, effect of...	10559
Parties bound by.....	10558-10560
Plaintiff's judgment for excess on defendant's counterclaim....	9140
Power of court to vacate when taken through mistake, surprise, etc.....	9187
Principal debtors, satisfaction against first.....	9314
Proceedings after determination of issue of law.....	9373
reference, when ordered.....	9373
Property exempt from execution ..	9427, 9428
Quo warranto.....	9588, 9589
how enforced.....	9593
Record on appeal from.....	9402
Recording, when affecting real property ..	6890
acknowledgment unnecessary..	6891
Relief against, when granted....	9187
Relief cannot exceed demand of complaint, when.....	9316
Rendered on merits, when.....	9318
Rendition and entry.....	9403-9415
Reservation of case for further consideration ..	9404

GENERAL INDEX.

JUDGMENT (Continued)

Review by supreme court, how had	9729
Revival on failure of title in purchaser on execution.....	9450
Right to obtain to prove instruments	6928
effect of judgment.....	6929
Sale of property under execution, when	9276
Satisfaction	
acknowledgment, how compelled	9414
from attached property, how..	9276
from property in hands of debtor	9459
how made.....	9414
Separate judgments on official bonds	490
Sister state, effect of.....	10563
Stay of proceedings on appeals from	9735- 9739
Supreme court may reverse or modify	8805
Tax has effect of.....	2152
Third party claims, proceedings on	9426
Time for appeal to supreme court	9732
Time for issuance of execution from justice's court.....	9693
To	
be presented against estates...*	10186
include interest and costs.....	9806
Transcript of filing in another county	9413
Transcript of recording—See Counties	4796, 4801, 4802
What deemed adjudged in.....	10561
What may be reviewed on appeal in supreme court.....	9750, 9751
When entered for plaintiff on partial admission of answer....	9149
When entitled to record.....	6891

JUDGMENT CREDITORS

Sureties substituted to rights of, when	9830
---	------

JUDGMENT DEBTOR

Concealment of property.....	10933
Property exempt from execution..	9427

JUDGMENT DOCKET

Effect of filing transcript of judgment of United States court..	9415
Open to inspection.....	9412
Satisfaction of judgment entered on	9414
What to contain.....	9411
When transcript effects lien in other counties.....	9413

JUDGMENT-ROLL

Certificate of judgment on appeal attached to.....	9753
Clerk to file.....	9409
Contents of.....	9409, 12074
In	
certiorari proceedings.....	9846
proceedings to dissolve corporations	9928

JUDGMENT-ROLL (Continued)

On	
confession of judgment without action	9870
submission of controversies without action.....	9873
Papers constituting.....	9409

JUDICIAL DAYS

Defined	8849, 8850
---------------	------------

JUDICIAL DISTRICTS

Defined	49, 8812
Designation on creation of new counties	4396
Number of judges in.....	8813
Terms of court in districts having more than one judge.....	8832

JUDICIAL NOTICE

As evidence.....	10492
Court to declare knowledge to jury	10699
Matters not necessary to be pleaded in information or indictment	11854
Of what facts taken.....	10532
Seal of industrial accident board	2825

JUDICIAL OFFICERS

Bribery of, penalty for.....	10853
Bribes, receipt of, by.....	10854
Disclosing finding of indictment..	10946
Duty to prevent duels.....	10985
Embracery defined.....	10858
Generally	8862- 8882
May punish for contempt.....	8874
May take affidavits, etc.....	8875
Powers	
in court.....	8873
out of court.....	8872
Punishment for corrupt practices	10861
Reference to laws governing....	365
Residence, restrictions on.....	415
Solicitation of bribes by.....	10855
Vacancies, effect of.....	8879

JUDICIAL RECORDS

See also Evidence	
Copies to bear seal, when.....	8861
Definition	10554
Effect of judgment or final order	10558
How authenticated as evidence..	10555
How impeached.....	10567
Jurisdiction necessary to sustain Of	
foreign country	
effect of judgment.....	10565
how authenticated.....	10556
how proved.....	10557
of court of admiralty.....	10564
justices' courts, in other state, how proved.....	10571, 10572
other state, effect.....	10563
One class of public writings....	10544
Record of foreign country, how authenticated	10556
Sureties bound by, when.....	10562
What deemed adjudged in judgment	10561

GENERAL INDEX.

JUDICIAL REMEDIES

Defined	8995
Divisions of.....	8996

JUDICIAL SALES

See Executions	
Foreclosure of pledge by.....	8317
Warranty	7620

JUDITH BASIN COUNTY

Boundaries and county seat.....	4327
---------------------------------	------

JUNK-DEALERS

See Pawnbrokers and Junk-dealers	
.....4186-4192, 11184-11187	
Presumptive evidence as to stolen property	11388
Regulation of, by cities and towns	5039

JURIES IN CIVIL CASES

Adjournment of court in absence of	9357
Admonition on separation.....	9351
Affidavit of claim to exemption..	8895
Affidavit of, to impeach verdict..	9397
Are judges of effect of evidence..	10672
Argument, how regulated.....	9349
Attendance, how enforced.....	8917
Capsules	
judges to inspect.....	8924
use in jury-boxes.....	
.....8899, 8904-8908, 9334-9340	
Challenges to	
panel or array.....	9343
what interposed.....	9346
Challenges to trial juries	
for cause, on what grounds taken	9344
how taken.....	9343
how tried.....	9345
in justice courts.....	9678
number of.....	9343
order of.....	9346
Charge by court, when and how given	9349
Commission	
duties	8897, 8898
how constituted.....	8896
Communication with, forbidden, when	9353
Competent to act, when.....	8890
Court to instruct on what points	10672
Defined	8883
Deliberations, how conducted....	9353
Discharge before verdict, retrial.	9356
Drawing and summoning in courts of record	
clerk to draw juries from box number one.....	8903
court may continue causes, when	8902
district court may order trial jury, when and how.....	8902
drawing	
from box number three to attend forthwith, when.....	8911
how conducted by clerk.....	8904
excuses, when presented.....	8922
judge to inspect capsules containing names.....	8924

JURIES IN CIVIL CASES (Continued)

Drawing and summoning in courts of record (continued)	
jury-box number three	
contents of.....	8907
when drawn from.....	8908
jury-box number two	
contents of.....	8905
when drawn from.....	8906
list to be delivered to sheriff..	8904
manner of impaneling, where prescribed	8923
names of jurors attending, deposit in box.....	8922
procedure in districts having more than one judge.....	8921
sheriff to summon jurors, how..	8910
sheriff to summon to complete panel	8912
two or more, judge may draw, when	8909
Drawing and summoning in justice courts.....	8913-8916
Exclusive judges of credibility of witnesses	10508
Exempt from jury duty, when...	8893
Fine for nonattendance.....	8917
Grand juries	
defined	8885
how constituted.....	8919
manner of impaneling.....	8920
one at a time in district.....	8921
when and how impaneled.....	8918
How waived in justice court...	9676
Impaneling	
in courts of record, how.....	8923
in justice and inferior courts	
juries of inquest	
by whom summoned.....	8916
defined	8889
manner of impaneling.....	8927
manner of impaneling.....	8926
proceedings in forming juries	8925
Impaneling, clerk to call list of jurors summoned.....	8922
In justice and police courts	
challenges, provisions applicable	9678
how	
formed	8925
impaneled	8926
summoned	8913, 8914
waived	9676
number of.....	8888
officer's return.....	8915
In particular actions	
contest of probate.....	10033
forcible entry and detainer....	9898
juvenile cases.....	10466
mandamus	9853
probate proceedings.....	10358, 10369
In supreme court in quo warranto	9600
Inquest, jury of	
defined	8889
how summoned.....	8916
Instructions to	
See Instructions to Jury	
additional when given.....	9354

GENERAL INDEX.

JURIES IN CIVIL CASES (Continued)

Judge to inspect capsules containing names.....	8924
Judges of evidence.....	10672
Jurors	
affidavit of claim of exemption.....	8895
excused, when.....	8894
inhabitants of city or town competent, when.....	8891
regular, who constitute.....	8901
term of service.....	8901
who	
competent to act.....	8890
exempt from duty.....	8893
may be excused.....	8894
not competent.....	8892
Jury commission, who constitute	8896
Jury of inquest defined.....	8889
Jury-box number	
one, how prepared.....	8899
three	
contents of.....	8907
when drawn from.....	8908
two	
contents of.....	8905
when drawn from.....	8906
Jury-lists	
ballots to be inserted in capsules.....	8899
clerk to destroy old ballots....	8900
clerk to prepare ballots.....	8899
delivery to clerk of court.....	8898
when and how made.....	8896, 8897
Kinds of.....	8884
Manner of impaneling.....	8923
May	
be witnesses, when.....	10537
come into court for further instructions.....	9354
instruction, how given.....	9354
take papers with them, when..	9352
Misconduct of, ground for new trial.....	9397
New panel no objection to validity.....	9342
Number in justice courts.....	8888
Oath, form of.....	9348
Officer to permit no communication with.....	9353
Papers, allowed to take.....	9352
Penalty for failure to attend....	8917
attachment and fine.....	8917
Polling on return of verdict.....	9358
Powers of court in absence of...	9357
Proceedings in case of sickness of juror.....	9355
Questions of fact decided by.....	10698
Regular jurors, who constitute...	8901
Retrial of case when jury prevented by cause from giving verdict.....	9356
Sealed verdict, court may direct..	9357
Selection of jury-lists, how...	8896, 8897
delivery to clerk.....	8898
Sickness of juror, procedure on...	9355
Summoning for courts of record—See subtitle drawing and summoning	8902- 8912

JURIES IN CIVIL CASES (Continued)

Summoning for justice and inferior courts	
how	8914
juries of inquest, how.....	8916
justice court juries, how.....	8913
office return.....	8915
police court juries, how.....	8913
Term of service for regular jurors	8901
To find amount of recovery, when	9362
To find value of property, when	9363
Trial jury	
defined.....	8886
formation of	
ballots to be drawn from box	
number three, when.....	9341
duty of jurors to attend...	9341
capsules containing	
absentees, disposal of....	9339
ballots, disposal of.....	9337
to be returned to box, when	9338
clerk to draw capsules containing ballot.....	9334
first persons drawn constitute	9336
mode of drawing capsules....	9335
new jury may be drawn when another trial pending.....	9340
number of.....	8887
Trial, when and how waived....	9365
Vacancies, how filled.....	9347
Verdict of—See Verdict.....	9357- 9364
View of premises, when permitted.	9350
Who exempt from service.....	8893

JURIES IN CRIMINAL CASES

Accommodations to be provided for	12009, 12010
Adding names, penalty for.....	10876
Adjournment in absence of.....	12016
Admonishing at adjournment.....	11999
Agreement, return into court.....	12017-12019
Altering jury-list	10876
Assessment of punishment, court may reduce.....	12031
error, duty of court.....	12029, 12030
Bound to obey instruction as to law	12004
Cause to be retried when discharged without verdict....	12015
Challenges to trial juries—See Challenges	11941-11968
Charge to, how and when given..	11969
Communication with, not permitted	12005
Coroner's jury—See Coroner's Inquests.....	12381-12393
Court may adjourn during absence of.....	12016
Court may advise acquittal, when.	11995
Decide law and facts in libel....	12003
Defendant's credibility, take into consideration what.....	12177
Degree of crime, must find.....	12022
Determine law and fact in libel..	10992
Disagreement, discharge, when...	12014
Disagreement, retrial.....	12015

GENERAL INDEX.

JURIES IN CRIMINAL CASES

(Continued)

Discharge, facts not constituting offense, procedure.....	11994
for lack of jurisdiction....	11990, 11991
illness of judge.....	12000
or retention pending investigation of sanity of defendant..	12214
upon verdict.....	12019
when	12014
Embracery	10858
Examination on challenge.....	11965
Falsifying jury-list, penalty for..	10877
Finding of lesser offense or attempt	12024
Formation of.....	11932
Further instructions, etc., return into court.....	12012
Grand juror acting after challenge allowed	10942
Grand jury—See Grand Jury.....	11806-11840
How formed in justice and police courts	12313
Illness, before conclusion of trial, procedure	12000
Illness of juror after retirement, procedure	12013
Improper influencing.....	10856
Information after retirement, how given	12012
Inquest number	12381
oath of.....	12382
verdict of.....	12385
Inquisition into insanity of defendant	12095-12098
Insufficient verdict, procedure....	12021
Issue of fact, must try.....	11929
Juror in contempt, on polling of, when	12033
Jury trial, how waived in justice and police courts.....	12313
Justices' courts, discharge, when. may decide in court or retire..	12321
may fix punishment.....	12327
not to separate, exception....	12319
retrial	12325
Justices' or police courts.....	12312
how waived.....	12313
Knowledge to be declared in court, when.....	11997
Manner of receiving verdict....	12019
May assess punishment.....	12027
convict of lesser offense or attempt	12024
decide in court or retire.....	12005
find general verdict.....	12004
find upon charge of previous conviction	12023
return into court for information	12012
information, how given.....	12012
take instructions to jury-room.	12011
Misconduct by, acts constituting, penalty for	10857

JURIES IN CRIMINAL CASES

(Continued)

Misconduct (continued) new trial	12048
of officers in charge of.....	10859
Misdemeanor, number required...	11929
Not bound to follow court's advice to acquit.....	11995
Not to be discharged until, when.	12014
Number in justice and police courts....	12312
in misdemeanor cases.....	11929
necessary for verdict in cases not felonies.....	11929
Oath in justice and police courts.	12318
Offering bribes to.....	10853
receiving bribes	10854
Officer falsifying jury-list.....	10877
On what points given instruction.	11969
Papers they may take to jury-room	12011
Personal knowledge of juror, procedure	11997
Polling of.....	12032
contempt	12033
Previous conviction, jury to find on charge of.....	12023
Procedure when juror sick after retirement	12013
Proceedings when juror sick.....	12000
Punishment, justice's court may modify	12328
court may assess, when.....	12027
Questions of fact decided by....	12004
Retrial on discharge of jury, when	12015
Return on agreement upon verdict	12017
Room for, upon retirement.....	12009
Separation during trial.....	11998
Separation without leave, new trial	12048
Sickness of juror—See subtitle Illness	
To ascertain value of property, when	12026
consider drunkenness, when....	10728
determine law and fact in libel suits	12003
retire in custody of officer....	12005
Trial by, removal from office....	11697
Trail jury, how formed in criminal actions	11932
Value of property, duty to find, when	12026
Verdict—See also Verdict as to codefendants.....	12025
how received.....	12019
value of property taken.....	12026
View of premises.....	11996
When guilty of contempt.....	12033
When sworn as witnesses.....	11997
JURISDICTION Abduction	11710
Accessories, actions against.....	11717
Acquired, when.....	9123
After remittitur from supreme court	12132
Application to change name....	9963

GENERAL INDEX.

JURISDICTION (Continued)

Bigamy, when defendant apprehended in another county....	11711
Bringing prisoner in another county before court.....	12432
Change of venue.....	9100
Confession of judgment.....	9868
Conviction or acquittal in another state a bar, when.....	11719
Court of impeachment.....	8787
Demurrer for lack of.....	9131
Disbarment	8961
Discharge of jury for lack of, when.....	11990
procedure when offense committed in state.....	11992, 11993
procedure when offense committed out of state.....	11991
District court	
appellate	8830
criminal	11631
original, scope of.....	8829
Dueling	
leaving state to evade statute against.....	11706
when death ensues.....	11705
Eminent domain.....	9939
Enticing children.....	11710
Escapes from prison.....	11713
Excess, release on habeas corpus.	12362
Facts constituting, to be established	11855
Forcible entry and detainer.....	9891
Incest, when defendant apprehended in another county...	11711
Indian and military reservations.	21
Judgments, what sufficient to sustain	10567
Justices' courts	
civil	8840
concurrent with district courts, when	8841
criminal	11630
in juvenile cases.....	10479
on delivery of docket from predecessor	9708
peculiar and limited.....	9717
remission of excess to save....	9685
territorial extent of.....	8836
waiver of.....	9680
Juvenile cases.....	10466
Kidnaping	10971, 11710
Lands acquired by United States.	20-25
Murder	
manslaughter	11716
when party dies in another county	11716
Naturalization proceedings.....	8829
Notaries public.....	385- 388
Objection to, not deemed waived..	9136
Objections, time for taking.....	11906
Offenses	
committed	
in state.....	11703
in two counties.....	11707
on boundary of two counties.	11708
without but consummated	
within state.....	11704
Police courts.....	8843

JURISDICTION (Continued)

Police courts (continued)	
concurrent, when.....	5088
exclusive, when.....	5089
Power of courts to carry into effect	8882
Principals not present.....	11718
Prize-fights	11721
Probate proceedings.....	10018
escheated estates.....	9959
order	
allowing mortgage on estates	10250-10255
leasing property of deceased persons	10256
of court to which probate proceedings are transferred...	10121
settlement of accounts of trustees after distribution of estate	10352-10354
Property taken in one county and brought into another.....	11712
Stolen property brought within state	11715
Summary removal of officers....	11702
Supreme court.....	8802
appellate	8804
original	8802, 8803
Territorial	
of state.....	20
of United States.....	20- 25
Transfer of cause from justices' courts	9625
Treason, when committed out of state	11714
Vessels and cars, offenses on board	11709
Voluntary appearance confers....	9123
When deemed acquired.....	9123
When sufficient to sustain a record	10567

JURORS

See also two preceding titles	
Certificates of attendance, issuance of.....	4937
Competency when county involved	4449
Exemption	
employees of school for deaf and blind.....	1460
firemen	5144
members of national guard....	1401
policemen	5102
Fees	
in coroner's inquest.....	4935
of	4933- 4935
grand and trial.....	4933
on appeals from board of medical examiners.....	3119
In justice courts, paid by party demanding	4935
Mileage of.....	4884
how computed.....	4901
when allowable.....	4934
Payment for time of attendance..	4934

JURY COMMISSION

Composition and duties.....	8896- 8898
-----------------------------	------------

JURY SERVICE

Right of state to require.....	26
--------------------------------	----

GENERAL INDEX.

JURY TRIAL

- How waived in justice courts.... 12313
- in district courts..... 11929

JURY-LISTS

- See Juries
- Adding names to..... 10876
- Falsifying, penalty for..... 10877
- In new counties—See Counties..
-4422- 4426

JUSTICE

- Fugitive from—See Fugitive from
- Justice12415-12428

JUSTICES' COURTS

- See also Justices' and Police
- Courts for all criminal mat-
- ters
- See also Justices of the Peace
- Abbreviations permissible..... 8881
- Actions
- alias summons, when issued.9633, 9634
- appearance, how made..... 9629
- time for.....9632, 9637
- change of venue—See subtitle
- change of venue
- commenced, where..... 9619
- defendant may waive summons,
- how 9628
- guardian ad litem, appointment,
- when necessary..... 9630
- hour for appearance..... 9637
- how commenced..... 9626
- limitation on right to change
- place of trial..... 9621
- parties may appear, how..... 9629
- place of trial changed, when... 9620
- limitation on change..... 9621
- to what court transferable.. 9622
- proceedings after order chang-
- ing place of trial..... 9623
- effect of order..... 9624
- service of summons
- how and by whom made.... 9636
- limitations on..... 9635
- summons
- contents and issuance..... 9631
- may issue, when..... 9627
- returnable, when..... 9632
- time for trial, when fixed..... 9637
- transfer to district court, when
- where to be commenced..... 9619
- Adjournment, conditions govern-
- ing 9670
- Answer, contents of..... 9642
- Appeals from, how taken—See
- Appeals9754- 9761
- Arrests in civil actions
- affidavit and undertaking to be
- filed 9653
- answer, contents and trial.... 9657
- defendant
- before whom taken..... 9654
- may apply for discharge,
- when 9657
- where detained..... 9652
- costs, how defrayed..... 9656
- how long detained..... 9656

JUSTICES' COURTS (Continued)

- Arrests in civil actions (contin-
- ued)
- judgment, when defendant sub-
- ject to..... 9683
- officer to notify plaintiff of ar-
- rest 9655
- order of arrest, when made.... 9652
- procedure on arrest of defend-
- ant 9654
- provisions of code applicable.. 9658
- Attachments
- defendant may give bond to
- avoid 9661
- form of writ..... 9661
- may issue, when..... 9659
- provisions of code applicable.. 9662
- undertaking required..... 9660
- exception to sureties, proced-
- ure 9660
- Bond of justice..... 8839
- Challenges to jurors, how regu-
- lated 9678
- Change of venue..... 9099
- affidavit on motion for, contents
- and effect of filing..... 9621
- limitation on right to change..
-9621, 9623
- when 9620
- Claim and delivery actions, pro-
- visions of code applicable.... 9663
- Complaint, answer, demurrer and
- reply—See subtitle pleadings
- Confession of judgment, how en-
- tered 9871
- Contempts
- actual and constructive...9699, 9700
- conviction to be entered in
- docket 9702
- justice may punish for, when.. 9698
- proceedings for.....9699, 9700
- punishment for..... 9701
- Continuance, conditions govern-
- ing9666- 9670
- Copies deemed genuine if not de-
- nied 9650
- Copy of instruments may be filed 9649
- Cost-bill not required..... 9804
- Costs
- security for..... 9715
- who entitled to..... 9716
- Counterclaim, effect of failure to
- set up..... 9643
- Default judgment, when entered.
-9664, 9665
- Demurrer to answer..... 9644
- proceedings on..... 9645
- Deposit in lieu of undertaking,
- when 9718
- Depositions
- how taken..... 9722
- power to take, for use in for-
- eign states.....10657, 10658
- when to be taken..... 9669
- Designation of defendant by fic-
- titious name, when..... 9723
- Dismissal of actions without pre-
- judice, when..... 9680

GENERAL INDEX.

JUSTICES' COURTS (Continued)

Disqualification of justices.....	9620
Dockets	
contents of.....	9703
conviction for contempt to be entered.....	9702
delivery to successor or county clerk.....	9706
disposal on vacancy of office..	9707
entries prima facie evidence...	9704
index to be kept.....	9705
powers of successor.....	9708
Effect of creation of new county	9708
Establishment of.....	8833
Evidence may be given in what cases.....	9625
Execution of process by retiring constable.....	9721
Executions from	
code provisions applicable to..	9697
duty of officer receiving.....	9696
form of.....	9694
renewal of.....	9695
when and by whom issued.....	9693
Fees of jurors.....	4935
Fictitious name, when used to designate defendant.....	9723
Fine for failure to transmit papers	9756
Guardian, when necessary, how appointed.....	9630
Inspection of original papers, when ordered.....	9649
Issues, defined and kinds of..	9671-9675
Judgment by default, when granted.....	9664
against defendant on demurrer, when granted.....	9665
setting aside, when.....	9647
Judgments	
abstracts	
filing and docketing.....	9690
form of.....	9689
issuance of execution on...	9691
lien of judgment.....	9692
by confession, when entered...	9679
costs to be included in.....	9688
court to enter at close of trial	9682
dismissal without prejudice, when entered.....	9680
entry upon verdict.....	9681
in actions against joint debtors	9684
in claim and delivery, how entered.....	9683
lien of.....	9692
of justices in other state, how proved.....	10571
on offer to compromise.....	9687
party may remit in excess of jurisdiction.....	9685
upon counterclaim.....	9686
upon verdict.....	9681
when defendant subject to arrest, contents.....	9683
Judgments of, in other states, how proved.....	10571
certificate attached.....	10572
Jurisdiction	
concurrent, when.....	8841

JUSTICES' COURTS (Continued)

Jurisdiction (continued)	
in civil actions	
defined.....	8840
extent of.....	8836
in criminal actions.....	8842
in proceedings for protection of dependent and neglected children.....	10479
peculiar and limited.....	9717
power to carry into effect.....	8882
territorial extent of.....	8836
waiver of.....	9680
Jury	
fees, by whom paid.....	9804
how summoned.....	8913, 8914
how waived.....	9676
number of, in.....	8888
Justice elected to fill vacancy, successor of whom.....	9709
Justice may hold court for another, when.....	8835
Number of.....	8833
Oath of office of justices.....	8839
Offer to compromise before trial, procedure and effect.....	9687
Open for business, when.....	8834
Pleadings	
amendment, when and how allowed.....	9647
answer or demurrer to amended pleadings.....	9648
answer, contents of.....	9642
complaint, defined.....	9640
copy deemed genuine if not denied.....	9650
copy of account or instrument may be filed, when.....	9649
bill of particulars, when required.....	9650
counterclaim, effect of failure to set up.....	9643
demurrer	
proceedings on.....	9645
to answer with new matter..	9644
to complaint, when.....	9641
effect of failure to set up counterclaim.....	9643
enumeration of.....	9639
form of.....	9638
new matter, when deemed denied.....	9646
proceedings on demurrer.....	9645
variance to be disregarded, when.....	9651
verification not necessary, when	9638
Postponement of trial by court, when.....	9667
by consent, when.....	9668
upon application of party, when and on what conditions granted.....	9669
Proceedings supplementary to execution, provisions applicable.	9697
Process	
and subpoenas.....	9711
where issued and served.....	8836
Provisions of code applicable to..	9717

GENERAL INDEX.

JUSTICES' COURTS (Continued)

Special constables	
appointment, when.....	9719
authority of.....	9720
Summons	
alias	9633
contents	9631
to issue, when.....	9627
Territorial extent of civil juris-	
diction	8836
Time for issuance of execution..	9693
Transfer of actions to district	
court, when.....	9625
Trials	
adjournment, when had.....	9666
commence, when.....	9666
continued, how and when.....	9669, 9670
issues defined and kinds of.....	9671
of fact, how raised and how	
tried	9672-9675
of law, how raised and how	
tried	9672, 9674
jury	
how formed.....	8925
how impaneled.....	8926
how waived.....	9676
to proceed in absence of party,	
when	9677
vacancies, how filled.....	8838, 9709,
proceedings not affected by..	8879
Venue	9619-9625
Waiver of summons, how.....	9628
What causes not triable in.....	9625
When open.....	8834
Where held.....	8834

JUSTICES' AND POLICE COURTS

See Justices' Courts for all civil	
matters	
Acquittal, immediate discharge..	12330
Actions, how commenced.....	12302
prosecuted by complaint.....	11621
Appeal	
acquittal, discharge of defend-	
ant, when.....	12340
how taken.....	12335
judgment for fine, how executed	12341
judgment of imprisonment, how	
executed	12341
sureties, judgment against,	
when	12337
time for.....	12334
trial de novo.....	12339
undertaking for fine and costs.	12336
undertaking on judgment of im-	
prisonment	12338
Bail pending appeal.....	12338
Bail, provisions applicable.....	12342
Challenges, how regulated.....	12317
Challenges to jury.....	12317
how tried.....	12317
Change of venue	
affidavit	12307
transmittal papers.....	12308
when	12307
Commitment to answer, or bail...	12305
Complaint, what to contain.....	12302

JUSTICES' AND POLICE COURTS (Continued)

Continuance, verbal notice to wit-	
nesses present sufficient.....	12315
Court cannot charge jury.....	12320
Court to decide question of law..	12320
Criminal actions, how prosecuted	
in	11621
Defendant	
admissible to bail, when.....	12342
to be	
discharged after judgment,	
when	12340
discharged on acquittal.....	12330
present at trial.....	12316
to make known true name, ef-	
fect of failure.....	12309, 12310
Demurrer sustained, new com-	
plaint	12311
Discharge of defendant on com-	
mitment	12333
Discharge of jury without ver-	
dict, when.....	12324
Docket, how kept.....	12304
Entitling of affidavits, provisions	
applicable	12344
Examination of witnesses on plea	
of guilty, when.....	12305
Execution of judgment, by whom	12326
Fines collected payable to justice	12346
collected by, payable to whom.	12347
imprisonment, when.....	12329
Form of warrant of arrest.....	12303
Guilty, procedure on plea of.....	12326
Issues, how tried.....	12306
Judgment	
against sureties on appeal.....	12337
of fine or imprisonment.....	12329
of imprisonment, how executed	12341
on plea of guilty.....	12326
to be entered in minutes.....	12332
when rendered.....	12332
Jurisdiction of justice courts,	
criminal	11630
Jury	
discharge of, when retrial.....	12325
discharge, when.....	12324
how formed.....	12313
may decide in court or retire..	12321
may fix punishment.....	12327
not to separate, exception.....	12319
number	12312
oath of.....	12318
retiring, officer sworn.....	12321
Jury trial, how waived.....	12313
Justice may modify punishment..	12328
Justice to pay fines to county	
treasurer	12347
Malicious prosecution, appeal by	
prosecutor from order to pay	
costs	12331
Minutes, how kept.....	12304
Name, duty of defendant to de-	
clare	12309, 12310
New complaint made, when.....	12311
Notice of appeal, time for filing.	12335
Oath of jurors.....	12318

GENERAL INDEX.

JUSTICES' AND POLICE COURTS

(Continued)

Oath to be administered on retirement	12321
Officer must pay fines to justices.	12346
Ordinances, how referred to.....	12302
Plea guilty, procedure.....	12305
Plea, oral.....	12305
Police court, what included in term	12345
Postponements	12314
Procedure on sustaining demurrer	12311
Proceedings in, how commenced..	12302
Prosecutor to pay costs, when...	12330
judgment against prosecutor...	12331
Punishment, court may fix when jury does not.....	12327
court may modify.....	12328
Questions of fact, court not to charge as to.....	12320
law decided by court.....	12320
Rendition of judgment.....	12326, 12332
time for.....	12332
Retrial of defendant on discharge of jury, when.....	12325
Subpoena, disobedience, how punished	12343
issuance of.....	12343
Trial de novo on appeal.....	12339
Trial, how conducted.....	12319
when	12306
True name of defendant....	12309, 12310
Undertaking	
for fine and costs on appeal....	12336
of prosecutor to pay costs.....	12330
on judgment of imprisonment on appeal.....	12338
Verbal notice to witnesses, when sufficient	12315
Verdict of jury, codefendants, disagreement as to one or more, procedure	12323
entry in minutes.....	12322
how delivered.....	12322
to be general.....	12322
Warrant, form of.....	12303
Warrant to issue, when.....	12303

JUSTICES OF THE PEACE

See also Justice Courts

Acknowledgments	
certificate to accompany, when	8876
may take, where.....	8875
of instruments, certificate of authority	6919
Appraisalment of lost property...	7695
As deputy registrars.....	557
Blanks not to be left in process, when	9712
Bond of.....	8839
Cannot practice law, where.....	8869
Certificate of authority to accompany acknowledgment, when	8876
Collection of fees in certain townships	4930
itemized statement.....	4930
penalty for violation of law...	4931

JUSTICES OF THE PEACE (Continued)

Commanding rioters to disperse..	11658
Concurrent jurisdiction with police magistrates.....	5088
Corporation meetings, power to order, when.....	5945
Deputize person to serve process, when and how.....	9719
authority of deputy.....	9720
Designation as police judges in certain towns.....	5021
Disability of, procedure.....	9714
Disposal of unsanitary food, duties	2586
Duty	
generally	4862
to	
collect and pay moneys, when	9713
investigate fires, when.....	2743
report fines.....	1217
with reference to fire-escapes..	2783
Elected, when.....	8833
Election and term.....	4730
Failure to pay over fines.....	11321
Fees	
in civil actions.....	4924
in criminal actions.....	4926
miscellaneous	4927
to be paid in advance.....	4924
to be retained, when.....	4928
Fires, duty concerning investigation of.....	2743, 2749
Hold court for other justices, where	8835
powers when holding.....	8835
Interest in judgment forbidden..	10860
Issue subpoenas and process, when	9711
Jurisdiction	11630
in actions for violation of optometry laws.....	3168
peculiar and limited.....	9717
to issue search-warrants against pawnbrokers	4187
Liability of, on appointment of special constables.....	9719
Lost property, duty concerning —See Finding.....	7694- 7700
Magistrates	11619
May	
act as coroner, when.....	4852
administer oaths.....	4738
apprentice child.....	5891
solemnize marriage.....	5710
take acknowledgments.....	6906
Money, receipt and disposal of...	9713
Must not have partners practicing law.....	8870
No pay when acting as police judge	5020
Not liable to impeachment.....	11668
Number and how elected.....	8833
Oath of office.....	8839
Office hours in townships of ten thousand and twenty thousand and people.....	4929
Open for business, when.....	8834

GENERAL INDEX.

JUSTICES OF THE PEACE (Continued)

Papers to be filled without blanks	9712
Power	
as to conduct of proceedings...	8873
to administer oaths.....	8873
to compel attendance of witnesses	8873
when enforcing prohibition law	11109
Practice of law by, forbidden, when	4863, 8869
Process, power to issue.....	9711
Provisions of code applicable to..	9717
Punish for contempt, when.....	8874
Qualifications	8865
Quarters for, in townships of ten thousand and twenty thousand people.....	4929
Residence of.....	8865
Salaries in townships of ten thousand and twenty thousand people	4929
Security for costs, power to require	9715
Sickness or disability, powers of justice attending.....	9714
Subpoenas, power to issue.....	9711
Successor in office.....	9707-9710
Term of office.....	8837
Vacancies	
how filled.....	8838
successor to preceding justice..	
.....	9709, 9710
When disqualified.....	8868

JUSTICES OF THE SUPREME COURT

See Supreme Court	
Duties as reporters of decisions..	
.....	378-384
May solemnize marriage.....	5710

JUSTIFIABLE HOMICIDE

See Homicide.....	10964-10967
-------------------	-------------

JUSTIFICATION

Extension of time.....	9823
Sureties, generally.....	9827
Sureties on	
appeal to district courts...9757,	9758
appeal to supreme court.....	9827
arrest of person.....	9197
attachment	9259
bonds of executors and administrators	10093, 10094
claim and delivery.....	9224
defendant's undertaking.....	9230
injunction bonds.....	9246

JUVENILE DELINQUENTS

Act not to affect state institutions	12300
Age of children subject to act....	12276
Agreements with certain institutions for support of children	12292
Appropriation for act.....	12297
Bond for chief probation officer..	12301
Certain terms defined.....	12276

JUVENILE DELINQUENTS (Continued)

Chief probation officer	
appointment and salary.....	12288
bond of.....	12301
examination of applicants.....	12288
expenses	12288
quarterly report of.....	12288
salary and expenses, how paid.	12288
statement of expenses, filing of	12288
to report cases tried.....	12277
Children	
not to be imprisoned, when....	12279
subject to rules of institution, when	12288
to be held for trial to district court, when.....	12280
when deemed.....	12276
Cigarettes, use of, delinquency, when	12275
Citation and report of persons having custody of child.....	12288
Citation to parents or guardians, when issued.....	12279
order to support child.....	12288
Commitment	
of child to, when ordered.....	12288
of children to reformatory institutions	12288
traveling expenses, how paid	12288
women to accompany girls...	12288
to industrial school.....1165,	1172
form of.....	12289
Commitments subject to certain rules	12288
Confinement of children with adult convicts prohibited.....	12288
Construction of act.....	12299
County attorney to prosecute....	12283
County commissioners authorized to carry out act.....	12297
Defined	12275
Deposition, as evidence, when....	12276
Designation of judge.....	12286
Detention homes	
establishment	12297
matron and superintendent, appointment and powers.....	12297
matron and superintendent, salaries	12297
provided for juvenile delinquents, when.....	12297
tax-levy to defray expense....	12297
transfer of county funds to purchase	12297
transfer of funds to private home	12297
Dismissal of actions, when.....	12288
Evidence of children, when used.	12276
Examination of children by magistrate	12280
Form of commitment to industrial school.....	12289
Hospital care for children, when provided	12288
Immediate hearing and trial, when	12288

GENERAL INDEX.

JUVENILE DELINQUENTS (Continued)

Issuance and return of citation..	12279
Judge, designation of.....	12286
Jurisdiction of actions.....	12277
Jurisdiction of justices of the peace, limitations.....	12280
Jury trial, right of child to.....	12277
Juvenile delinquent, record, how kept.....	12277
Juvenile improvement committee, when and how appointed....	12287
Matron of detention home, appointment.....	12297
New trials and appeals, provisions applicable.....	12284
Notice of proceedings to be served upon parents.....	12279
Penalty for improper and negligent training of children....	12293
Persons entitled to be present....	12282
Petition, filing and contents....	12279
Place of trial.....	12281, 12282
Placing of children in public hospitals, when.....	12288
Prior acts excepted from repeal..	12298
Probation officer	
appointment.....	12288
children may be placed in family, when.....	12288
children may be placed in institution, when.....	12288
crimes of children, duties concerning investigation.....	12288
duty of judges as to children..	12288
duty to investigate criminal cases.....	12288
duty to prepare report of cases	12277
expense, care of children, how paid.....	12288
inspection institutions by bureau of child and animal protection.....	12288
investigation by.....	12288
order to show cause to pay expense.....	12288
hearing.....	12288
judgment.....	12288
powers and duties.....	12288
Proceedings before magistrate after arrest.....	12280
Proceedings by petition.....	12278
Provisions of Penal Code applicable.....	12284
Purpose of act.....	12299
Records of probation officer.....	12290
Religious beliefs, consideration of in placing children.....	12291
Report of custodian of children..	12288
Return of children to home, when	12288
State institutions not affected....	12300
Superintendent of detention home, appointment.....	12297
Support of children, how enforced.....	12288
Suspension of judgment, when...	12288

JUVENILE DELINQUENTS (Continued)

Suspension of sentence.....	12285
bond, contents of.....	12294
citation and judgment against surety on bonds.....	12296
court may suspend, when.....	12294
execution of sentence.....	12295
forfeiture of bond.....	12295
moneys, how disposed of.....	12296
power of court concerning....	12294
when had.....	12285
Time and place of trial.....	12282
Written statement on release upon probation.....	12290

KEEPERS

Liens of—See Liens.....	8383- 8386
Of attached property, appointment and fees.....	4916

KEEPER'S FEES

Allowed in claim and delivery actions.....	9233
Of sheriff for keeping property—See Political Code.....	4916

KEROSENE

Inspection of—See Gasoline and Oils.....	4193- 4208
Storage within cities and towns..	2815

KIDNAPING

Consent of person kidnaped not defense, when.....	10972
Definition and punishment.....	10970
Jurisdiction of actions.....	11710
Venue of actions.....	10971

KILLING LIVESTOCK

Liability of railroads for—See Railroads.....	6540- 6550
---	------------

KINDERGARTEN

Establishment of.....	1057
-----------------------	------

KINDRED

Degrees of, how computed...	7076- 7080
Of half-blood inherit.....	7081

KNOWINGLY

Defined.....	10713
--------------	-------

KNOWLEDGE OF COURT—See

Judicial Notice

KOOTENAI RIVER

Construction of bridge across 1803, 1804
--

LABELS

See also Trademarks.....	11202-11209
Improper labeling by druggists..	11238
On adulterated foods.....	11245

LABOR

See also Child Labor	
See also Employer and Employee	
See also Hours of Labor 3068-3083,	5138
See also Industrial Accident	
Board	3012- 3033
See also Master and Servant..	7794- 7800

GENERAL INDEX.

LABOR (Continued)

Acts of employers in violation of election laws.....	10770
Arbitration of disputes—See Arbitration and Conciliation, Board of	3052- 3060
Blacklisting prohibited.....	3093
reason for discharge to be given	3094
Carey land act contracts, regulation of hours.....	1962
Contracts protecting employers for negligence unlawful, when	7555
Convict labor, regulation of....	12446
Discharged employees payment of.....	3086
protection of.....	3092
Discounting wages forbidden....	11403
Exemptions	9428
False representations to procure.	11220, 11221
action for damages.....	11222
compulsory boarding-houses prohibited	11223
punishment for violation of act	11224
Foremen soliciting gifts.....	11404
Hours of labor of prison guards..	12441
Injunctions, when allowed in disputes	9242
Judgment for wages to include attorneys' fees, when.....	3089
Mine regulations—See Mines and Mining	11267-11280
Of children—See Child Labor	3095- 3104
Of wife, her property.....	5797
Payment of wages—See Wages.. ..	3084- 3089
of discharged employee, penalty	3086
Penalty for failure to pay on time....	3085
time for recovery.....	3087
contracts in violation of act void	3088
Priority of wages—See Liens....	8351- 8358
Prisoners in county jails required to labor.....	12484
Prohibition against Mongolian labor	1962
Prosecutions, immunity of witnesses	11405
Protection of discharged employees	11219
Protection of street-car employees—See Street-car Employees..	3061
Railroad employees, compensation on removal division points.. ..	6623, 6624
Safety—See Safety Provisions of Workmen's Compensation Act	3012- 3033
Soldiers and sailors preferred on public works.....	5653
Vocational rehabilitation—See Vocational Rehabilitation	3044- 3051
Women to receive equal pay, when	3090, 3091

LABOR AND INDUSTRY, COM-MISSIONER OF

To issue age certificates, when...	3098
To keep record of children under sixteen	3097

LABOR DAY

Holiday	10
School not to be held on.....	1062

LABOR ORGANIZATIONS

Counterfeiting union label.....	11204
Suits on counterfeit labels, by whom	11208
Unlawful use of name or seal of..	11209
Use of counterfeit union label....	11205

LACHES

Defense in actions for divorce...	5762
Denial of divorce for, when.....	5762

LAKES

Appropriation of water from—See Water and Water Rights	7093- 7127
--	------------

LAND

See main title Property, subtitle real property for main treatment of subject	
See also Real Property	
Acquisition by United States....	24
Acreage and suburban tracts, platting and survey of.....	4993
Assessment of.....	2023
Boundaries—See Boundaries.....	6770- 6775
Claims in national forest to be marked	3380- 3382
Classification for taxation—See Taxation	1999, 2024- 2031
Contract for purchase, sale on death of purchaser.....	10237
Covenants running with—See Obligations	7416- 7423
Defined	6668
Devised in will, passes what....	7013
Injuring fences, building fires, and hunting upon.....	11482
Leases agricultural land and city lots, when void.....	6707, 6708
Malicious injuries to, acts constituting	11481
Possession of, when deemed adverse	9020, 9024
Returning to take possession of, after eviction.....	11301
Rights of owner to use of.....	6770
Rights of purchaser at foreclosure sale	9449
Rules for construing description..	10683
Selling twice, punishment.....	11412
false representation by married person.....	11413
Small tracts to be platted before sale, when.....	4993
State—See State Lands.....	1805- 1995

LAND AGENT, STATE

See State Lands.....	1824- 1829
Reference to law governing.....	207

GENERAL INDEX.

LAND COMMISSIONERS, STATE BOARD OF

See State Lands.....	1805- 1817
Composition	119
Duty to notify state auditor of amount of school funds for apportionment	945

LAND GRANT FUNDS

How invested.....	1910a
-------------------	-------

LAND GRANT

Funds, how invested.....	1910a
Payment of interest on warrants.	1917

LAND OFFICE EXPENSE FUND

Abolished	1920
-----------------	------

LANDLORD AND TENANT

See also Forcible Entry and De-
tainer

Adverse possession	
how affected by relation.....	9023
when affected by relation.....	9023
Assignee of lessee, liabilities....	6764
rights of.....	6765
Assignee of lessor, liability of...	6765
Attornment of tenant to stranger	7748
Attornment, when unnecessary...	6872
Damages for wrongful holding over by tenant.....	8694, 8695
Duty of landlord to make dwell- ing-house fit for use.....	7741
Failure to quit after notice, treble damages	8694
Fixtures, right of tenant to re- move	6825
Hiring	
apportionment of hire.....	7740
charter party defined.....	7755
defined	7730
degree of care of hirer.....	7733
dwelling-houses, lessee may re- pair, when.....	7742
dwelling-houses, lessor to repair	7741
hirer, degree of care required..	7733
may make good letter's de- fault	7753
may terminate, when.....	7737
must repair injuries, when..	7734
leases renewed by continued possession	7745
letter may terminate, when...	7736
letting parts of room forbidden	7750
lodgings, term presumed, when	7744
notice to quit.....	7746
obligation of letter of personal property	7751
of thing let for particular pur- pose, conditions.....	7735
ordinary expenses borne by hirer	7752
ownership of product of thing hired	7731
quiet possession, agreement im- plied	7732
real property, term presumed, when	7743

LANDLORD AND TENANT (Con- tinued)

Hiring (continued)	
rent, when payable.....	7747
return of thing hired.....	7754
storage—See Storage.....	7660- 7672
tenant to deliver notices served on him, when.....	7749
terminates, when.....	7738, 7739
when deemed renewed.....	7746
Landlord joined as defendant, when	9078
Lease of lodgings for indefinite term	7744
Leases	
agreements must be in writing, when	7519
agricultural land, void, when..	6707
change of terms by notice.....	6769
city lots, void, when.....	6708
grantees of rents, rights of...	6763
oil, gas and mineral	
release, action to compel...	6903
release, demand for.....	6904
release of record.....	6902
railroads, equipment and roll- ing stock—See Railroads.	6533- 6539
remedies of lessor against as- signee or lessee.....	6764
rent dependent on life, recovery	6767
rent on leases for life, how re- covered	6766
rights of lessees and assignees.	6765
tenants, rights of.....	6761
termination of tenancy by notice, when.....	6744- 6746
terms, how changed by notice..	6769
when must be in writing.....	7519
Lessees and assignees, rights of..	6765
Letting buildings for boxing- matches misdemeanor.....	11296
gambling, principals.....	11177
lotteries, misdemeanor.....	11156
Letting houses for disorderly pur- poses	11141
Notice not necessary before ac- tion for possession, when...	6748
Notice of change of terms of lease	6769
Notice of termination of tenancy at will.....	6744- 6746
Notice to quit.....	7746
Re-entry, right, how exercised...	6746
Remedies of lessor against as- signee of lessee.....	6764
Renewal of lease by continued possession	7745
Rents, when payable.....	7747
Rents, rights of grantees as to re- covery of.....	6763
Reversioners, remedies of.....	6768
Right to remove fixtures.....	6825
Rights of	
grantees of rents.....	6763
tenant for life.....	6760
tenant for years.....	6761
Summary proceedings for posses- sion of.....	6747

GENERAL INDEX.

LANDLORD AND TENANT (Continued)

Tenancy at will, how terminated by notice.....	6744
effect of notice.....	6745
re-entry, when and how made..	6746
Tenant	
action against cotenant for injury to property, when.....	9091
compensation on partition sales.....	9549, 9550
duty to deliver notice served on him.....	7749
for life	
duties of.....	6776
rights of.....	6760
for years	
not affected by judgment in partition.....	9538
rights of.....	6761, 6762
notice by mail.....	9890
notice to quit.....	9889
relief against forfeiture of lease.....	9906
right of joint tenants to sue or defend, how.....	9085
when guilty of unlawful detainer.....	9889
when no limit is fixed.....	7743
Termination of tenancy by notice	
effect of notice.....	6745
re-entry, when and how made..	6746
Term of hiring, when presumed..	7743
Wilful holding over of tenant, treble damages.....	8695

LANDMARKS

Removing, defacing or altering..	11484
Surveyors' monuments, injuries to	11490

LANGUAGE

Of contract to govern intent.....	7529
-----------------------------------	------

LARCENY

Acts constituting.....	11368
Claim of title as defense.....	11384
Conversion by trustees, administrators, etc.....	11382
Defenses.....	11384
Definition.....	11368
Degrees of.....	11370
Dogs, personal property.....	11375
Evidence on trial for, when sufficient.....	12008
False devices for measuring gas, water or electricity.....	11387
False pretenses obtaining money by.....	11410
Fixtures.....	11380
Gas or electricity.....	11385, 11386
Grand, defined.....	11371
Grand, punishment.....	11373
Jurisdiction	
of action for property brought within state.....	11715
of justice court.....	8842
when property brought into another county.....	11712
Lost property.....	11376

LARCENY (Continued)

Money, etc., what proof sufficient	12008
Obtaining money by gambling...	11161
Obtaining property by fraudulent check.....	11369
Of gas or electricity.....	11385
Out of state, bringing property into state, jurisdiction.....	11715
bringing property into state...	11381
Petit, defined.....	11372
prior conviction, punishment...	11593, 11594
punishment.....	11374
jurisdiction of justices of the peace.....	11630
Pleading.....	11860
Railroad tickets.....	11378
Receiving property by false personation.....	11409
Receiving property stolen out of state.....	11381
Receiving stolen property.....	11388
Records by others.....	10874
Records by public officers.....	10873
Removal of mortgaged property..	11416
Severing part of realty.....	11380
Taking property from one county to another jurisdiction.....	11712
Uttering fraudulent checks or drafts.....	11369
Value of passenger tickets, how ascertained.....	11378
Value of written instruments, how ascertained.....	11377
Verbal false pretense.....	11383
Verdict, value of property.....	12026
Water.....	11386
Written instruments.....	11377, 11379

LATERAL SUPPORT

Right of land owners to.....	6773
------------------------------	------

LAUNDRIES

License.....	2440
--------------	------

LAW

See also Codes	
See also Statutes	
See Questions of Law	
Absolute certainty in evidence not required.....	10491
Authenticated copies admissible as evidence, when.....	10551-10555
Books containing, presumed correct, when.....	10550-10552
Certain officers forbidden from practicing.....	4740, 8992
Codes	
establish.....	4
when retroactive.....	3
Common law, rule of, decision, when.....	5672
Conclusions separately stated, when.....	9367
Construction of codes in case of conflicts—See Codes....	5521-5525
Defined.....	5670
Enactment, approval and effect of —See Statutes.....	84-98

GENERAL INDEX.

LAW (Continued)

Foreign laws, how evidenced....	10551
How expressed.....	5671
Issues of—See Issues	
Judges	
forbidden to practice.....	8869
not to practice after term, when	8871
Justices of peace not to practice.	4863
Of evidence defined.....	10490
Of place, governs contracts.....	7537
Other evidence of laws of other states, when admissible.....	10552
Partner of judges, practice forbidden.....	8870
Practice, code provisions regulating.....	3252
Practicing law defined.....	8944
Public and private statutes defined.....	10548
Publication of laws.....	142
Questions of, addressed to court.	10699
Statutes and organic law defined	10547
Unwritten law defined.....	10549
of sister states, how evidenced.	10552
Written laws defined.....	10546, 10547

LAW ENFORCEMENT FUND

Creation and use.....	11084
-----------------------	-------

LAW LIBRARY

See Library, State.....	1547- 1575
Reports of supreme court, how distributed.....	384
Salaries of department.....	440
transfer of attorneys' license tax fund to.....	8960

LAW MERCHANT

Governs negotiable instruments, when.....	8497
---	------

LAW SCHOOL, STATE

See University, State.....	872- 874
----------------------------	----------

LAWFUL RESISTANCE

See Resistance.....	11632-11634
---------------------	-------------

LAWS

See Session Laws	
Effective date.....	90
Publication fish and game.....	3674
Retroactive, when.....	3
Revised Codes 1921—See Codes..	
.....	5539- 5544
Session laws, how distributed....	135
When abrogated by codes.....	17

LAWS OF THE ROAD

See Highways.....	1742- 1754
-------------------	------------

LAWYERS

See Attorneys-at-Law.....	8936- 8973
Reference to laws governing..	409, 3252

LEAD ARSENATE

See Paris Green.....	2600- 2614
----------------------	------------

LEADING QUESTIONS

Defined, when permissible.....	10663
--------------------------------	-------

LEAP YEAR

Defined.....	4278
--------------	------

LEASES

See Landlord and Tenant for main treatment of subject	
See also Forcible Entry and Detainer.....	9887- 9906
See also Intoxicating Liquors for abatement laws	
Agreements for longer than one year.....	10611, 10613
Agreements must be in writing, when.....	7519
Agricultural land for over ten years, when void.....	6707
Change of terms by notice.....	6769
City lots void, when.....	6708
Corporate property, proceedings for.....	6004
Forfeiture for violation intoxicating liquor laws.....	11068
Grantees of rents, rights of.....	6763
Indexes of, by county clerk.....	4799
Mining claims, duty to furnish statement proceeds of ores...	3444
civil penalty for violation of act	3445
criminal penalty for violation of act.....	3446
Of buildings for gambling void..	11177
Oil, gas and mineral release, actions.....	6902- 6904
Procedure to lease property of corporation.....	6004
Property of ward, how authorized	10426
Railroad equipment and rolling stock—See Railroads....	6533- 6539
Belief against forfeiture, when and how granted.....	9906
Remedies of lessor against assignee or lessee.....	6764
Rent dependent on life, recovery.	6767
Rent on leases for life, how recovered.....	6766
Rights of lessees and assignees..	6765
State lands, value, how determined.....	1899
see also State Lands.....	1882- 1904
Tenants	
action against cotenant for injury to property, when.....	9091
adverse possession, how and when affected by relation..	9023
compensation on partition sales.....	9549, 9550
for years not affected by judgment in partition.....	9538
notice by mail.....	9890
notice to quit.....	9889
relief against forfeiture of lease right of joint tenants to sue or defend, how.....	9085
rights of.....	6761
when guilty of unlawful detainer.....	9889
Terms of, how changed by notice	6769
To property of deceased persons, how made.....	10249-10256
Unlawful detainer, who guilty of	9889

GENERAL INDEX.

LEAVE OF COURT

To file information..... 11801

LEGACIES

See also Wills.....6974- 7050
See Probate Proceedings—See
also Civil Code
Kinds of..... 7051
Order of payment..... 7054

LEGAL FENCES

See Fences..... 3374

LEGAL HOLIDAYS

See Nonjudicial Days
Acts performed on following day 12
Defined 10
Exception as to school laws..... 11
School holidays, defined..... 1062
Teachers need not work on..... 1060
Writs may be issued and served
on 8829

LEGAL TENDER

See Tender
Of payment of money, deposit in
banks 7446

LEGISLATIVE ASSEMBLY

Acts, when effective..... 90
Altering draft of bill or resolu-
tion 10836
Altering enrolled copy of bill... 10837
Apportionment of representatives
in house..... 44
based on federal census..... 44
membership of house..... 45
new counties
number of members for..... 46
to what district attached... 47
number of members for each
county 45
Appropriation bills—See Budget
Act 298- 302
Assistant
clerk of house, duties..... 67
secretary of senate, duties... 67
sergeant-at-arms, duties..... 70
Bribery
acts constituting.....10850, 10851
by members, defined..... 10848
defined 10841, 10842
of members..... 10838
defined 10849, 10851
Bribes, receiving by members... 10839
Bribes, solicitation of..... 10840
Certificate of election, evidence.. 56
Clerk of house, duties..... 66
Clerks, enumeration of.....62, 63
Compelling attendance of mem-
bers 61
Compensation of
members 74
officers and employees..... 76
Composition of..... 51
Corrupt practices, penalty..... 10847
Disqualification of members on
conviction of crime..... 10847
Disturbing of..... 10835

LEGISLATIVE ASSEMBLY (Con- tinued)

Duties of
officers at close of session.... 73
subordinate officers..... 71
Election of senators.....53, 54
Employment of additional help.. 77
Enactment of statutes—See Initi-
ative and Referendum—See
also Statutes
Engrossing and enrolling clerks,
duties 72
Fees
and per diem of members.... 74
for records, exemption from... 145
of officers for service at close
of session..... 78
of president of senate and
speaker of house..... 75
Fraudulent altering of enrolled
bills, etc. 10837
Fraudulent altering of proposed
bills, etc. 10836
Furnishing of stationery and sup-
plies for..... 292
Governor may convene..... 55
House of representatives—See
House of Representatives
How constituted..... 51
Inspection of books of state
prison 12451
Journals
distribution of..... 135
how authenticated..... 68
Lobbying, improper..... 10846
Meetings, when and where held.. 55
Members not to be interested in
contracts 444
Members soliciting bribes..... 10840
Mileage of members..... 4884
Oath of office
form of..... 430
of members, entry.....57, 59
when taken..... 431
Oath, power to administer..... 65
Officers
and employees
of house..... 63
of senate..... 62
how elected..... 60, 64
to administer oaths..... 65
Organization of
house 58
senate 57
Penalty for violation of act... 10852
Perjury of witnesses before.10881, 10882
Personal interest in bills, duty to
disclose 10844
Preventing meeting or organiza-
tion of..... 10834
Publications of reports by news-
papers 10995-10997
Quorum, compelling attendance.. 61
Receiving of bribes by members 10839
Record of proceedings to be kept 66
Report to, by board of state prison
commissioners 12462

GENERAL INDEX.

LEGISLATIVE ASSEMBLY (Continued)

Representation on creation of new counties	4405
Resignations, how made.....	510
Right to seat, how evidenced....	56
Salary of	
employees	76
members	74
president and speaker.....	75
Secretary of senate, duties.....	66
Senatorial districts, in new counties	43
Sergeant-at-arms	
duties	69
to compel attendance, when....	61
Solicitation of bribery	
by members, defined.....	10848
defined	10843
Speaker of house.....	63
Supplies for.....	256, 265
Term of office of members.....	52
Trading votes.....	10848
Vacancies	
during recess.....	515
how filled.....	513
Witnesses before	
compelling attendance.....	82
contempts	81
failure to attend.....	10845
not to be held to answer criminally	83
refusal to obey.....	83
service of subpoenas.....	80
subpoenas for.....	79

LEGISLATIVE REFERENCE BUREAU

See Library, State.....1568, 1569

LEGISLATURE

See Legislative Assembly	
Acts of, how proved.....	10568
Judicial notice of acts of.....	10532

LEGITIMACY

How established.....	5832
Of children	
after dissolution of marriage..	5831
born before wedlock.....	5852
born in wedlock.....	5830
by adoption.....	5865
how affected by divorce for adultery	5775, 5776
Presumed, when.....	10605, 10606
Who may dispute.....	5832

LEPERS

Disposal of indigent.....	2461
---------------------------	------

LETTERS

Opening or publishing when sealed, punishment.....	11493
Ownership, in whom vested.....	6811
Publication against will of writer	6811
Presumption as to receipt of...	10606
Sending, when deemed complete..	11587
Threats by, unlawful.....	11398
When read answer may be given	10515

LETTERS OF CREDIT

Banks may deal in.....	6087
Continuing guaranty, when.....	8216
Credit to agree with terms.....	8218
Defined	8210
General letter, nature of.....	8214
extent of.....	8215
How addressed.....	8211
Kinds of.....	8213
Liability of carrier for loss.....	7855
Liability of writer.....	8212
Notice of writer necessary, when	8217

LETTERS PATENT

Recording without acknowledgment	6892
--	------

LETTERS TESTAMENTARY—See Probate Proceedings

LEVY

See Executions	
Of taxes—See Taxation	
Unlawful under color of official right	11394

LEWDNESS

Abatement of buildings, when...	11124
Acts upon children.....	11005

LEWIS AND CLARK COUNTY

Boundaries and county seat.....	4328
---------------------------------	------

LIABILITY

Bondsmen, civil.....	4737
Employers requiring release from employees	11402
Negligent control of fire.....	2769
Of	
banks for forged checks.....	6093
directors corporations on failure to file statements.....	6003
husband and wife for debts and acts	5790
husband for antenuptial debts of wife.....	5798
husband neglecting to support wife	5800
partners—See Partnership.7981—	8059
railroads for death or personal injury of employees.....	6605
stockholders for debts of banks	6036
stockholders for debts of corporation	5966
wife for husband's support....	5802
On official bonds—See Official Bonds	464— 509
Separate property of wife for debts	5799
Sheriff—See Sheriff.....	4780— 4785

LIBEL

Action upon, time for commencement	9032
Answer may allege, what.....	9176
Defamation	5689
Defined	5690, 10989
Extortion, offer to prevent publication	10998

GENERAL INDEX.

LIBEL (Continued)

Giving false information for publication	10999
How pleaded.....	9175
in indictment and information	11857
Jury to determine law and facts	10992, 12003
Liability of editors and publishers	10994
Malice presumed, when.....	10991
privileged communications not deemed	10997
Political criminal libel defined..	10800
Privileged communications.....	10997
Publication, what constitutes....	10993
Publishing true reports of public proceedings privileged.....	10995
extent of privilege.....	10996
Punishment	10990
Threatening to publish, penalty for	10998
Truth may be given in evidence..	10992

LIBERTY COUNTY

Boundaries and county seat.....	4329
---------------------------------	------

LIBRARIES

See Circulating Libraries....	1570- 1575
See also Counties, subtitle free libraries	4563- 4573
See also Library, State.....	1547- 1575
Bond of county librarian.....	466
Exempt from execution, when....	9428
How incorporated.....	6453
Law library fund, transfer of moneys to:.....	8960
Public appointment of trustees.....	4998
establishment in cities.....	5049- 5051
School—See Schools, Public, subtitle libraries	

LIBRARY, STATE

Assistants to law librarian.....	1567, 1569
librarian of historical library, salary	444, 1564
Board of trustees, powers and duties	1548, 1549
Bond of librarian.....	1559
Books liability for injury to.....	1555
of state officers for.....	1554
regulation of use.....	1552
return of.....	1553
Composition of.....	1547
Control of departments.....	1548
Custody of donations from historical society.....	1563
Departments of.....	1548
Expenses for freight, how paid.....	1561
other	1562
Funds, of what composed.....	1556
Historical and miscellaneous department..	1548
librarian assistants to.....	1564
duties of.....	1560

LIBRARY, STATE (Continued)

Index to session laws, librarian to make	1565
Law librarian secretary of state to deliver laws to.....	1560
to index session laws.....	1565
Law library.....	1548
Legislative reference bureau creation of.....	1568
duties of.....	1568
employment and salary of assistants	1569
Librarians appointment	1549
bond of.....	1559
duties	1551
salary	440, 1558
term of office.....	1550
Library hours.....	1557
Powers and duties of board of trustees	1549
Salary of librarian and departments	440
Session laws, librarian to index..	1565
Stenographic assistance to law librarian, when.....	1567
Trustees, how constituted....	115, 1548
Use of books, how regulated.....	1552
What constitutes.....	1547

LICENSES

See also the specific professions	
Abstracters of life insurance policies	170
Alien gun.....	3708- 3711
Architects	2441
Attorneys	8938
Bakeries	2589
Beaver, license to trap.....	3722
Billiard and pool-tables.....	2434
Blanks, how prepared and kept..	2410
Boilers, operation of steam..	2720, 2728
Bottling works.....	2589
Bowling-alleys	2434
Builders and contractors.....	2441
By cities and towns.....	5039, 5224
Cafes	2589
Canneries	2589
Captain's license.....	3862
Carrying on business without, punishment	11328
Chauffeurs—See Motor Vehicles..	
.	1755- 1763
Cheese factories.....	3282
Chiropractors	3149
renewal fees.....	3149
Cigarettes, sale of.....	2435
Circus	2434
Clerk of court to verify.....	2410
Condensed milk factories.....	3282
Confectionery stores.....	2589
Contractors	2441
County clerk to keep license account.....	2412
number and deliver.....	2411
prepare	2410
County treasurer to require payment	2415

GENERAL INDEX.

LICENSES (Continued)

County treasurer to require payment (continued)	
liability for failure of persons to take out.....	2414
Creameries	3282
Dairies and dairy products, required	2589, 3282, 3283, 3348
Dining-cars	2589
Disposal of money for.....	2420
Drugs and nostrums, vendors of.	2429
Employment agencies.....	4158
Engineers	2720
Examination of certain cafes and dining-rooms	2589
Explosives, for storage of.....	2795
False certificates to engineers....	11198
Fees to county treasurer for....	2418
Firemen	2720
Fishing	
and hunting—See Game and Fish	3681- 3707
with nets.....	3714
Fraternal benefit societies.....	6320
Game-farms	3777
Grain-weighers	3592
Guides	3745
Hoisting-engineers	2730- 2736
Hunting and fishing	
See Game and Fish.....	3681- 3707
for scientific purposes.....	3760
Ice cream	
factories	3282
parlors	2589
Insurance companies, revocation of—See Insurance Corporations	167
Intelligence office.....	2434
Itinerant vendor's license	
amount of.....	2423
application for.....	2424
definition of terms.....	2422
exceptions to act.....	2421
indorsement and filing of application	2425
interpretation of act.....	2428
penalty for	
doing business without.....	2427
failure to exhibit.....	2426
vendors of drugs and nostrums.	2429
who must obtain.....	2421
Jacks	3357
Junk-dealers	4186
Laundries	2440
License	
account to be kept.....	2412
taxes, power of cities to levy—See also Taxation.....	5224
Lien of.....	2419
Lunch-counters	2589
Manufacturers	2441
of malt.....	2442
of nonintoxicating beverages..	2436
Manufacturing	
bakeries	2589
confectioneries	2589
Marriage—See Marriage.....	5711- 5715

LICENSES (Continued)

Meat	
markets	2589
sale of.....	2589, 3283, 3285, 3348
penalty for violation of act..	3349
Menagerie	2434
Merry-go-round	2438
Money, how disposed of.....	2420
Moving picture shows in cities...	2439
Numbering and delivery to treasurer	2411
Nurserymen's	3619
Oleomargarine, sale of.....	2435
Packing-house	3285
Pawnbrokers	2434, 4186, 11184
forfeiture, when.....	11185
Payment of fees under protest	
actions to recover.....	2409
refund of fees.....	2409
Peddlers—See subtitle itinerant vendors	
Penalty for	
attorney practicing without...	8943
failure to procure.....	2443
insurance companies collecting premiums without.....	6117
operating without.....	2443
Physician's, revocation when drug addict	3199
Pilots	3862
Plumbers	5183- 5193
Pool-tables	2434
Premiums, bonuses and trading-stamps	
fees and issuance.....	2431
license	
contents of.....	2432
required for giving.....	2430
penalty for violation.....	2433
Preparation and printing of.....	2410
Proof on trial.....	2416
Prosecution for failure to procure	2414
Protest license fund, creation...	2409
Purveyors of food and drinks	
cancellation	2589
disposal of fees for.....	2589
fees, when due.....	2590
hearing before board.....	2589
to whom issued.....	2589
Railroad warehouses.....	2435
Real estate brokers.....	4060
Receiving stations.....	3282
Refusal to give names of employees	11327
Restaurant proprietors.....	2589
Separate licenses, when necessary	2413
Settlement by county treasurer..	2417
Shooting-galleries	2434
Skating-rinks	2438
Slaughter-houses.....	3285, 3348
Soda fountains.....	2589
Soft-drink	
establishments	2589
manufacturers	2436
Stallion	3357
keepers	2437
State board of health, pure food and drug act.....	2589
Steam boilers, operating without.	11196

GENERAL INDEX.

LICENSES (Continued)

Steam vessels.....	3862- 3874
Stock inspectors, employment by county commissioners...	4484, 4485
Taxidermists	3751
Theatres	2434
To agent of railroad company....	6565
To certain establishments, issued by livestock sanitary board..	3282
Undertakers	2456
Use of unauthorized receipts.....	11325
possessing unauthorized blank receipts	11326
Wage-brokers	4173, 4174
Warehousemen, buyers and dealers	3589
When to be procured.....	2413

LICENSE TAXES

See Taxation, subtitle license taxes

LIENS

Accessory to act.....	8241
Against boats.....	9603, 9604
Against estates, how collected....	10180
Agister's lien, who entitled to...	8383
Allowance attorneys' fees on foreclosure	9799
Arise, when.....	8226
Assignments of property, liens for wages on.....	8351
Attachment accrues, when.....	9238
Attorneys' fees allowed on foreclosure	9799
Attorneys, for compensation....	8993
Banker's lien.....	8338
Carrier's lien.....	7866
Certain contracts void.....	8230
Claim not due not entitled to....	8226
Contracts of mortgage or pledge subject to law of.....	8224
Costs in partition suits are.....	9570
Costs on foreclosure.....	9799
Created, how.....	8225
Creation by contract.....	8223
Creation, obligation implied by..	8231
Creditor may enforce obligation..	8233
Crop liens—See subtitle for seed-grain for crops	
Damages for injuries to lienors..	8691
Deemed accessory to act, secured.	8241
Defined	8219
Do not transfer title to property	8229
Extent of.....	8232
Extinction by lapse of time.....	8243
Extinction by sale or conversion	8242
Factor's lien.....	8387
For driving logs	
foreclosure	8337
how perfected.....	8336
release from lien.....	8338
who entitled to.....	8336
For salaries and wages	
assignment of property, preferred creditors.....	8351
attorneys' fees, when allowed..	8352
claims, original action not to be dismissed	8357
mortgages not affected by priority claim.....	8358

LIENS (Continued)

For salaries and wages (continued)	
preferred creditors on assignment of property.....	8351
priority of wages in case of attachment	8354
priority of wages on death of employer.....	8353
proceedings if priority claim disputed.....	8356
service of notice of priority claims	8355
For seed-grain for crops	
acknowledgment of satisfaction, penalty for failure.....	8362
extension of lien.....	8359
priority of liens.....	8361
statements, contents and filing.	8360
who entitled to lien.....	8359
For storage charges, sales to pay	7665
Freightage, carrier's lien for....	7843
Future interests, agreement to create lien on.....	8227
Gas wells, liens on.....	8375- 8377
General, defined.....	8221
Hail insurance, liens for....	8363- 8365
Herders' liens—See subtitle agisters' liens.....	8383- 8386
Holder not entitled to compensation	8234
Holders of, when parties to partition suits.....	9521, 9529, 9530
Judgment lien	
extent and duration of.....	9410
how regulated.....	8392
in justice courts.....	9692
of federal court, expiration....	9415
on death of party before entry	9408
transcript of docket.....	9413
Judgment on bail-bond.....	12165
Judgment to pay constitutes....	12073
Kinds of.....	8220
Laborer's lien—See subtitles for salaries and wages and mechanics' liens	
Licenses	2419
Logger's lien	
bona fide purchasers, effect of..	8331
cook entitled to.....	8318
costs of suit, allowance of....	8332
county clerk to endorse lenders	8326
defects not to invalidate, when	8330
driving logs, lien for.....	8336- 8338
duration of lien.....	8327
enforcement of lien, how.....	8328, 8329
extent of lien.....	8322, 8323
form of liens.....	8324
judgment and sale or property	8333
jurisdiction of court.....	8328
lien of landowner.....	8320
lien on lumber.....	8319
parties to action, joinder consolidation	8332
penalty for destroying means of identification	8335
priority of liens.....	8321
recording claim of lien, procedure	8324, 8325

GENERAL INDEX.

LIENS (Continued)

Logger's lien (continued)	
rights of parties to actions for enforcement	8329
sale of property, how effected..	8334
who entitled to.....	8318, 8319
Marshaling as between surety and principal	8208
May be created by contract.....	8228
Mechanics' liens	
county clerk to endorse and file extent of lien.....	8341 8342
filing notice of lien.....	8340
leasehold interest, how affected	8343
limitation of commencement of action	8348
oil and gas wells and pipe lines, liens on.....	8375- 8377
parties, who may be made.....	8347
perfection of lien.....	8340
persons entitled to.....	8339
priority as to time of filing....	8342
priority over mortgages.....	8344
provisions of code applicable..	8345, 8346
satisfaction, duty to enter....	8350
time for commencing action....	8348
what property affected.....	8342
who deemed owners.....	8349
who entitled to.....	8339
Mortgage, lien on what.....	8251
Mortgages—See Mortgages..	8246- 8291
Obligations may be enforced without	8233
Of	
carriers for freightage.....	7843
chattel mortgage, duration of..	8279
factor	8387
innkeeper	7675
mining partners.....	8053
Officer's lien.....	8391
On crop for hail insurance	
mutual company, lien of.....	8364
satisfaction of lien.....	8365
seed lien for hail insurance authorized	8363
statement to be filed.....	8364
On future interest.....	8227
On oil and gas wells and pipe lines	
how perfected and enforced..	8377
lien for labor and supplies furnished contractor.....	8376
preferential nature of lien....	8375
who entitled to.....	8375
On property	
real, created by bastardy proceedings	12269
to be partitioned.....	9540- 9543
used in sale intoxicating liquors	11066, 11108, 11132
Order of resort to different funds	8237
Partial performance, effect on...	8244
Persons performing service on personal property—See Agister..	8383- 8386
Pipe lines, liens on.....	8375- 8377

LIENS (Continued)

Prior liens, enforcement of, when	8223
Priority of.....	8235
Priority of mortgage for price...	8236
Purchaser's lien on real property	8382
Real estate for liability on official bonds	505
Real estate mortgage.....	8267
Redemption, how made.....	8240
Redemption, rights of inferior lienor	8239
Reference to code provisions governing	9907
Restoration extinguishes, when..	8245
Right to redeem.....	8238
Salaries and wages, lien for—See subtitle for salaries and wages	
Seamen's lien.....	8390
See Agister.....	8383- 8386
Seller of personal property, lien of real property, lien of.....	8381 8378
extent of lien.....	8380
transfer of contract and waiver of lien, when.....	8379
Services, liens for.....	8383
Shipmaster's lien.....	8389
Special, defined.....	8222
Special improvements in cities—See Cities and Towns...	5225- 5270
Stallion-keeper's lien	
penalty for fraudulent pedigree	8394
penalty for selling animals subject to.....	8395
stallion-keeper to file statement	8393
who entitled to.....	8395
State arid land contracts.....	1983
State, on logs cut on land.....	1877
Tax lien on sale vests, when....	2197
Taxes operate as.....	2152- 2154
Threshermen's lien	
acknowledgment of satisfaction, penalty	8374
endorsement and abstract by county clerk.....	8368
limitations of actions to foreclosure	8370
notice of lien, contents and filing	8367
notice to elevatorman.....	8367
owner defined.....	8373
parties to actions.....	8372
priority of lien.....	8369
rules of practice.....	8371
service of notice upon elevatorman	8367
statement of lien, contents and filing	8367
who may claim.....	8366
Title to property not transferred by	8229
Wages, liens for—See subtitle for salaries and wages	
Warehousemen's	4105- 4114

LIEUTENANT-GOVERNOR

Compensation	131, 132
Duties	130
Impeachment proceedings against	11685
Resignation, to whom made.....	510

GENERAL INDEX.

LIFE ESTATE

See also Partition
Termination, procedure on..... 10375

LIFE IMPRISONMENT

Court may sentence to, when.... 11598

LIFE INSURANCE

See Insurance.....8159- 8162
See Insurance Corporations..6257- 6304
Abstracters of policies, license of
—See Abstracters of Life In-
surance Policies.....170- 173
Assignment of policy, notice not
necessary 8161
Exemption from execution..... 9428
Insurable interest..... 8159
Measure of indemnity..... 8162
Right to transfer policy..... 8160
When payable..... 8158

LIFE INSURANCE COMPANIES

See Insurance Corporations..6257- 6304
See Valuation 6265

LIGHTING DISTRICTS

See Cities and Towns.....5259- 5270

LIME

Pounds in bushel..... 4226

LIMITATIONS

In grants, how controlled..... 6850
Not affected by adoption of code 10706
Of contract for personal services. 7773

LIMITATIONS, STATUTE OF

Acknowledgment and part pay-
ment evidence of new con-
tract, when..... 9062
Actions
for recovery of property sold by
guardian 10461
include special proceedings.... 9066
on guardians' bonds..... 10460
to
annul tax deeds..... 2214
cancel patents to state lands. 1865
recover gambling losses..... 11174
recover premises on entry of
townsites 5342
recover taxes..... 2270
when commenced..... 9047
Adverse claims to lots in towns.. 5320
Against boats..... 9605
Aliens in time of war, limitations 9053
Arbitration, submission to, effect
of death or stay..... 9059
Assault 9032
At time of adoption of code.... 10706
Banks and banking corporations
actions against, to recover
money 9046
actions for forged or altered
checks 9046
Battery 9032
Bond issues, actions to restrain. 9040
Cities and towns, actions against,
for salaries of police depart-
ment 9036
for what salaries recovery may
be had..... 9037

LIMITATIONS, STATUTE OF

(Continued)

Civil actions, when commenced.. 9011
Claims against county on rejection 9035
Claims against estates 10178, 10179, 10241
Contesting wills.....10042-10048
Contracts
not founded on instruments in
writing 9030
or obligations founded on in-
struments in writing..... 9029
Coroner, actions against..... 9031
Damages for death by wrongful
act 9031
Death of person out of state, ef-
fect of..... 9025
before expiration of limitation. 9050
Defendant out of state, effect of.. 9048
Demand necessary, time, how com-
puted 9058
Directors or stockholders of cor-
porations, actions against, not
within act, when..... 9061
Disabilities
effect of co-existing..... 9057
time of, not part of limitation,
when 9049
who may claim..... 9056
Discontinuance of action, effect on
counterclaim 9060
Divorce 5762- 5765
Dower, actions, when commenced 9015
Effect of
code on past offenses..... 10712
death of party before limitation
expires 9050
dismissal of action upon defend-
ant's counterclaim..... 9060
upon existing causes of action.. 9064
Escheats 9962
Exception
as to persons under disability.. 9048
of certain actions, how com-
puted 9049
when defendant is out of state 11725
Existing actions
for salaries or removal from
office 9039
not affected..... 9064
False imprisonment..... 9032
Felonies other than murder or
manslaughter 11723
Foreclosure of
liens for driving logs..... 8336
logger 8327
mechanics' 8348
threshermen's 8370
Fraud or mistake, accrual of.... 9033
How affected by adoption of code 9
How pleaded..... 9173
Indictment, when found..... 11726
Judgments or decrees of courts
not of record..... 9030
of record..... 9028
Killing or injuring stock by rail-
roads 9033
Liability created by statute other
than penalty for forfeiture.. 9033

GENERAL INDEX.

LIMITATIONS, STATUTE OF

(Continued)

Libel	9032
Limitations, where prescribed....	9027
Manslaughter	11722
Mechanics' liens, actions to fore- close	8348
Mesne profits of real property....	9028
Misdemeanors	11724
Mortgages, actions to redeem....	9044
Municipal corporations for damages by mob or riot....	9034
for violation of ordinance....	9034
Murder	11722
Mutual accounts, cause of action accrues, when.....	9042
None in actions against directors of corporations for violation of law.....	5939
Nonresidents, certain actions against to be brought, when..	9063
Objection how taken.....	9065
when taken in reply.....	9065
Obligations not founded on writ- ings other than contracts or accounts	9031
Of actions to vacate sales by ex- ecutors and administrators... exception	10245 10246
Officers for recovery of goods seized	9034
Ordinances, actions for violations of	9034
Payment of principal or interest, effect as new promise.....	9062
Persons under disabilities, how af- fected by limitations.....	9049
Police department, actions to re- cover salaries.....	9036
Railroads, for killing or injuring property	9033
Real property adverse possession how affected by relation of landlord and tenant.....	9023
how established.....	9024
under claim of unwritten title, what constitutes.....	9022
under written instruments or judgment, what constitutes when premises occupied under claim of title.....	9020 9021
certain disabilities excluded from time of commencement	9026
entry on real estate valid, when	9017
grantee from state must sue, when	9013
occupants deemed under legal title, un- less adverse.....	9018
under written instruments or judgment, deemed adverse, when	9019
possession when necessary in actions arising out of title to or rents of.....	9016

LIMITATIONS, STATUTE OF

(Continued)

Real property (continued) possession (continued) when presumed.....	9018
within ten years, when nec- essary to maintain.....	9015
right of possession not affected by descent.....	9025
state or grantees, actions on letters patent or grants, when in- stituted	9014 9014
will not sue, when.....	9012
time of continuance of certain disabilities excluded, when...	9026
Recovery of stock sold for delin- quent assessments.....	5989, 9035
Redemption of mortgages.....	9044
same when some mortgages not entitled to redeem.....	9045
Relief not proved for, time for com- mencement of action.....	9041
on ground of fraud or mistake deemed to accrue, when....	9033
Restoration to public office.....	9038
Reversal of judgment, effect on limitations	9054
Seduction	9032
Sheriff actions against for escape of prisoners	9034 9031
or constable, actions against...	9032
Slander	9032
Specific recovery of personal prop- erty, taking, detaining or in- juring goods.....	9033
State and private parties bound by	9043
Statute for penalty or forfeiture.....	9032
of limitations, when extin- guishes lien.....	8243
Stay by injunction, effect upon limitation	9055
Survival of action where judg- ment has been reversed, death of plaintiff.....	9054
Taking or injuring goods or chat- tels	9033
Time between death and letters of ad- ministration, how computed..	9052
of pending information, not counted, when.....	11727
To annul marriages.....	5730
Upon liability created by statute other than penalty or forfeit- ure	9033
statutes for penalties or for- feitures	9032
undertaking in criminal actions	9032
Vacating sales in probate matters	10245, 10246
Waste or trespass.....	9033
action accrues, when.....	9033
Wills, actions to establish.....	9030

GENERAL INDEX.

LIMITATIONS, STATUTE OF

(Continued)

Writing, when necessary to except from act.....	9062
Wrongful removal from office, action, when commenced.....	9039

LINCOLN COUNTY

Boundaries and county seat.....	4330
---------------------------------	------

LINCOLN'S BIRTHDAY

Holiday	10
School not to be dismissed on....	1062

LIQUIDATED DAMAGES

Contract for, when valid.....	7557
Contract providing for, when void	7556
Not bar to specific performance..	8719

LIQUIDATION

Of partnership.....	8014- 8020
---------------------	------------

LIQUORS

See Intoxicating Liquors...	11048-11133
-----------------------------	-------------

LIS PENDENS

In actions to establish title to real property granted heirs of deceased entrymen.....	9509
In partition suits.....	9522
When and how filed.....	9109
effect of.....	9109
When filed in actions to quiet title	9481

LIVERY STABLE KEEPERS

Lien of.....	8383
--------------	------

LIVESTOCK

Actions for killing, time for commencement	9033
Alteration of brands forbidden....	11211
Assessment of—See Taxation 2068-	2075
Attorneys' fees, when taxed as costs in actions for killing...	6544
Auctioneer	
book of.....	4154
to record sales of.....	11541
Barbed-wire, permitting to become dangerous	11557
Bounty laws—See Bounties. 3407-	3417
Branding cattle running at large, when prohibited.....	11553
running-irons prohibited.....	11553
Brands	
animals driven through state to be branded.....	11542,
duties of officers.....	11547
finer, how disposed of.....	11548
penalties for violation of act	11546
road	11544
sash or frying-pan, prohibited	11554
sheep, how distinguished....	11545
certain years designated for rerecording	3303
fees for recording and rerecording	3307

LIVESTOCK (Continued)

Brands (continued)

fraudulent change of, animal killed, when.....	3314
compensation for animal killed	3315
owner may sue officer, when..	3316
notice of rerecording, publication of.....	3305
penalty for violation of act....	3306
procedure for recording.....	3302
recording required.....	3301
repealing clause.....	3308
right to exclusive use, when recorded	3304
use of unrecorded, forbidden...	3301
Bringing into state when infected	11534
Bulls, running at large—See subtitle running at large	
Cattle and horses, inspection of—See subtitle inspection.....	3317
Cities and towns, running at large in, forbidden.....	3401, 3402
Classification for taxation.....	1999
Compensation for slaughtered animals—See subtitle livestock sanitary board, for full treatment of subject	
Contagious diseases, duty to report	3286
Cruelty to—See Cruelty to Animals	11508-11515
Dairy licenses.....	3282
Death from mischievous animals, penalty	11260
Dipping sheep—See subtitle livestock sanitary board	
Diseased animals not to remain at large	3287
See also subtitle livestock sanitary board	
duty of owner to report.....	3286
Disobeying orders of state veterinary surgeon.....	11535
Dogging prohibited.....	11552
Driving	
cattle from customary range forbidden	11549
cattle on railroad.....	11555
on sidewalks.....	11504
over bridges, how regulated...	11252
Estray	
branding	3335
defined	3337- 3339
description of animals taken out during shipment.....	3342
expenses of taking up, how paid	3336
livestock commission to take possession of.....	3333
penalty for	
failure to comply with act..	3345
wrongful taking up.....	3340
proceeds of sale	
disposal of.....	3336, 3338
owner may claim, when.....	3336
publication of description of... sale	3338
at public auction.....	3335
by inspectors outside state..	3343

GENERAL INDEX.

LIVESTOCK (Continued)

Estray (continued)	
sale (continued)	
expenses of.....	3336
in public markets, procedure	3330
notice of.....	3334
proceeds, how disposed of...	3336
shipment	
description to be given stock	
inspector	3342
duplicate lists, where filed...	3341
duty of shipper.....	3341
stock inspector to gather up...	3334
tallying of cattle, blanks for...	3344
Exclusion from tick-control districts	2559
Failure of auctioneer to record sales of.....	11541
False pedigree.....	11417
sale of, with.....	11418
Fences—See Fences.....	3374-3379
Herd districts	
animals not to run at large in.	3385
creation of.....	3384
damages, actions to recover...	3386
petitions, contents and hearing	3384
rescue of impounded animals a misdemeanor	3388
trespassing animals, notice, procedure	3386
unlawful introduction of stock into	3389
validation of former districts..	3387
Hides	
penalty for violation of act....	3349
persons slaughtering cattle to retain	3346
record of slaughtered cattle to be kept.....	3347
duplicate copies.....	3347
filing of.....	3347
repealing clause, pending actions excepted.....	3350
Hogs, running at large, forbidden	3393
Horses and cattle, inspection—See subtitle inspection of livestock	
Importing diseased cattle after quarantine proclaimed.....	11538
Impounded stock, duties of cities and towns—See Cities and Towns	5175-5182
Inspection of livestock	
See also subtitle livestock sanitary board	
action against officers seizing, costs	3316
brands changed, animal to be killed, when.....	3314
cattle before removal from state	3321
certificate of inspection.....	3322
penalty for violation of act by carrier.....	3323
stock inspector to examine...	3322
compensation for animals killed	3315
horses before removal from state	3317
fees for inspection.....	3320

LIVESTOCK (Continued)

Inspection of livestock (continued)	
horses before removal from state (continued)	
inspection, how made.....	3318
penalty for violation of act by carriers.....	3319
permit for removal.....	3318
stock inspector to examine, and describe.....	3318
livestock and neat cattle on removal from one county to another	
certificate	
duplicate, where sent.....	3326
of inspection.....	3326
duties of inspector.....	3325
exceptions to act.....	3324
inspection, how made.....	3324
penalty for violation of act..	3327
record of inspection.....	3325
veterinary surgeon to inspect, when	3326
markets to keep record of sales	3328
inspection of.....	3329
penalty for failure of shippers to comply with act.....	3345
powers of inspectors outside of state	3343
public markets, inspection of..	3329
penalty for violation of act..	3332
quarantine of diseased animals	3330
sale of estrays	
disposal of proceeds.....	3331
when	3330
stock inspectors and deputies	
appointment	3309
bond and oath.....	3310
compensation	3312
district officers.....	3313
duties	3311
Inspectors, appointment, oath and duties	3309
Jacks—See Stallions and Jacks..	
.....	3357-3373
Jury may view in criminal cases, when	11996
Larceny of, acts constituting.....	11371
Liability of railroads for killing or injuring—See Railroads...	
.....	6540-6550
License to sell meat required....	3348
Lien	
for keeping.....	8383
of persons to whom stock entrusted—See Agister...8383-	8386
Limitations on actions for injury by railroads.....	9033
Livestock commission	
appointment	
of stock inspectors by.....	3309
term and qualifications.....	3253
bills, how audited and paid...	3257
blanks, for shippers, to be furnished	3344
bond of	
inspectors	464

GENERAL INDEX.

LIVESTOCK (Continued)

Livestock commission (continued)	
bond of (continued)	
market inspectors.....	464
secretary and clerk.....	464
bounty claims, duties concern-	
ing.....	3410-3413
compensation.....	3254
constitute livestock sanitary	
board.....	3260
expense bills, audit and payment	3257
fund created for.....	3257
officers and rules.....	3255
organization of board.....	3255
payment of damages for killing	
livestock, by railroads.....	6546
disposal of money.....	6546
powers and duties	
generally.....	3256
where prescribed.....	231
report of.....	3258
secretary.....	3255
duty to find owner of im-	
pounded animals.....	5181
special tax for payment of ex-	
penses.....	2078
transfer of powers to.....	3259
Livestock sanitary board	
carcasses, disposal of proceeds	
of sale.....	3277
cities may provide for inspec-	
tion of slaughter-houses.....	3270
civil liability for violation of	
act.....	3289
claims against, verification and	
approval.....	3261
common carrier liable for ex-	
pense, when.....	3281
compensation for animals	
slaughtered by.....	3271
control of manufacture of food	
for livestock.....	3267
creation.....	3260
diseased stock not to run at	
large.....	3286
burial of animals.....	3287
emergency fund.....	2078
expense of	
cleaning cars, etc., a lien...	3281
dipping, testing, etc., how paid	3280
foreclosure of lien.....	3280
lien for, when.....	3280
federal compensation deducted.	3279
federal inspector, appointment	
of.....	3265
form of claims for slaughtered	
stock.....	3274
fund.....	3291
indemnity for slaughtered stock,	
when not allowed.....	3278
inspection, powers concerning..	3267
inspectors and deputies, appoint-	
ment by.....	3264, 3265
investigation and prevention of	
disease.....	3267
license	
for producers of dairy prod-	
ucts, schedule of.....	3282

LIVESTOCK (Continued)

Livestock sanitary board (contin-	
ued)	
license (continued)	
for slaughter-houses.....	3285
from board of health not re-	
quired.....	3283
lien for expense, foreclosure..	3280
livestock commission constitutes	3260
local peace and health officers	
to assist.....	3284
may require statistics.....	3267
meat slaughtered under unsani-	
tary conditions not to be sold	3269
members immune from liability	3293
notice of diseased stock to be	
given.....	3286
oaths, power to administer....	3290
packing-houses, license of....	3285
partial invalidity of act, effect	
of.....	3294
penalty	
and damages.....	3289
for violation of act.....	3288
personal liability, limitations on	3293
powers	
and duties, where prescribed.	231
concerning witnesses.....	3290
generally.....	3267
to install meat inspection...	3267
to make sanitary inspection	
of premises.....	3266
public officers to co-operate with	3284
quarantine imported livestock	
by.....	3267
quorum.....	3260
records prima facie evidence..	3267
removal of appointees.....	3267
repealing clause.....	3295
report of veterinary surgeon...	3292
rules	
promulgation of.....	3268
to prevent disease.....	3267
sale of diseased carcasses for-	
bidden.....	3269
sampling food products.....	3267
slaughter-houses	
control of sanitary conditions	
by.....	3267
license of.....	3285
slaughter of animals by	
claims for	
how paid by county.....	3273
how paid by state.....	3273
how presented.....	3274
classes of animals.....	3271
compensation, amount of....	3271
compensation from other	
sources deducted.....	3279
county, when liable.....	3271
examination and payment of	
claims.....	3275, 3276
form of claims.....	3274
indemnity	
from what funds paid.....	3273
when not allowed.....	3278
limit of compensation.....	3271
limit of indemnity.....	3271

GENERAL INDEX.

LIVESTOCK (Continued)

Livestock sanitary board (continued)	
slaughter of animals by (continued)	
other personal property, how paid for.....	3272
payment for	
stock not in state one hundred twenty days.....	3278
when killed in inspection.	3271
proceeds from sale of carcasses, disposal of.....	3277
rules for compensation.....	3271
sale of condemned carcasses..	3277
valuation	
how determined.....	3271
how fixed when not assessed	3271
warrant for claims, how issued.....	3275
young animals, value, how fixed.....	3271
slaughter of diseased cattle...	3267
special tax for expenses of....	2078
state veterinary surgeon	
assistants and deputies, qualifications of.....	3264
federal veterinary inspectors	
appointment by.....	3265
powers of.....	3265
state veterinary surgeon chief executive officer.....	3262
appointment of deputies and assistants	3264
duties	3263
powers	3263
qualifications of.....	3262
supervision sanitary conditions livestock	3267
traveling expenses.....	3260
treatment of diseased animals	3267
tuberculin	
penalty for violation of act..	3298
permission for sale of.....	3296
report of sales of.....	3297
test	
permission for use to be obtained from.....	3296-3298
regulation by.....	3268
unconstitutionality of act, effect of.....	3294
veterinary surgeon, state appointment	
and qualifications.....	3262
inspectors by.....	3264, 3265
duties	3263
powers of.....	3266
report of.....	3292
tuberculin test of dairies by	2583
witnesses, power to summon...	3290
Malicious killing or injury to, punishment	11515
Migratory, taxation of.....	2069-2075
Penalty for	
killing by railroads.....	11278
owner of trespassing stock....	11226
railroads violating law concerning killing	6549
violating stray law.....	3332

LIVESTOCK (Continued)

Permitting diseased animals to run at large.....	11556
Pollution of streams by.....	11235
Pure-bred stock	
bulletin of owners to be published	3354
county assessors to collect names of owners.....	3351
information to be furnished agricultural experiment station	3352
official books of breed associations	3353
penalty for violation of act....	3356
sale under false registration prohibited	3355
Quarantine—See subtitle livestock sanitary board	
of diseased animals in public markets	3330
Rams and goats	
liability of owner for damages	3392
not to run at large, when.....	3390
penalty for running at large...	3392
Range stock, how attached—See Attachments	9296-9300
Receiving or transporting when diseased	11539
Recorder of marks and brands	
See subtitle brands	
secretary of board is recorder..	3299
venting brands.....	3300
Ridgelings and jacks not to run at large	3396
Running at large	
bulls	
castration of.....	3406
penalty for violation of act	3405
pure-bred	
only, to run at large.....	3403
to accompany breeding cattle	3404
hogs, when forbidden.....	3393, 3394
in cities and towns, forbidden.	3401, 3402
punishment for permitting.....	3402
rams and goats, when forbidden	3390-3392
ridgelings and jackasses, when forbidden	3396
stud-horses, when forbidden...	3397
Sale of	
cattle by inspector outside of state	3343
report of.....	3343
diseased carcasses forbidden...	11243
estrays—See subtitle estrays	
Sheep	
bringing into state when infected	11534
inspection and indemnity fund	3257
moving diseased, under quarantine	11537
receiving and transporting when diseased	11536
removal of scab sheep without certificate of inspection.....	11533

GENERAL INDEX.

LIVESTOCK (Continued)

Shipment of estrays—See subtitle estrays	
Stallions—See Stallions and Jacks	
.....	3357- 3373
Stock inspectors	
appointment	3309
bond and oath	3310
compensation	3312
district officers	3313
duties	3311
employment by county commissioners, when	4484
Stray stock	
fund	3331
procedure on taking up—See also subtitle stray	3379
Stud-horses	
inquiry of records, notice to owner	3399
penalty for violation of act....	3400
running at large, filing description	3397
taking up, and castrating	3398
Swine	
fines, disposal of	3395
not to run at large	3393
penalty for violation of act....	3394
Taken on search-warrant to be sold	12408
Taking up horses without owner's consent, punishment	11551
Taxation of—See Taxation..2068-	2087
Trespassing forbidden	11225
fines, disposal of	11227
punishment for	11226
scope of act	11228
Trespassing stock	
liability of owner	3378
procedure on taking up	
bond for recovery	3379
lien, foreclosure of	3379
notice to owner	3379
rescue, misdemeanor	3379
service of notice	3379
to be retained, procedure	3379
Tuberculin test for dairy cattle	
regulation of	3268, 3296- 3298
state veterinarian to make....	2583
Venting brands	3300
Veterinary surgeon	
See subtitle livestock sanitary board	
obstructing or failing to report to	11540
View by jury	11996

LIVESTOCK COMMISSION

See Livestock.....3253- 3259

LIVESTOCK SANITARY BOARD

See Livestock.....3260- 3295

LOADING PLATFORMS

Maintenance by railroads....3822- 3826

LOANS

See also Banks and Banking..6014- 6109
 Bank loans on real estate, limitation of..... 6062
 Borrower to bear expenses, when. 7710

LOANS (Continued)

Borrower to repair injuries, when.	7707
By banks, limitation on.....6059-	6062
Care required of borrower.....	7704
of animals for use	7705
Certain section applicable	7719
Defined	7702
Degree of skill required of borrower	7706
False statement to obtain, penalty	11408
Lender	
cannot modify contract	7718
liable for defects, when	7711
may require return, when	7712
Loan for exchange defined	7715
Loan of money	
interest	
annual rate of	7724
defined	7723
on judgments	7729
part of principal, when	7728
rate allowed by agreement..	7726
rate of legal	7725
presumed to be on interest	7722
repaid in current money	7721
usury, penalty for	7727
what constitutes	7720
Optional loan, provisions governing	7716
Place of return	7714
Relending forbidden	7709
Title insurance companies, to employees forbidden	6354
Title to property lent	7703, 7717
To stockholders of corporations prohibited	5958
Use of thing lent by borrower..	7708
When returnable without demand.	7713

LOBBYING

Defined, penalty for..... 10846

LOCAL BOARDS OF HEALTH

See Health, Local Boards of.2464- 2472

LOCAL EXECUTIVE BOARD

For state institutions—See Education, State Board of.....841- 851

LOCAL IMPROVEMENT DISTRICTS, ROAD

See Highways.....1676- 1702

LOCKOUTS

See Arbitration and Conciliation, Board of.....3052- 3060
 See Strikes.....11220-11222

LOCOMOTIVES

See Railroads
 Interference with—See Railroads. 11468-11472
 Stealing rides on, forbidden..... 11569

LODGES

Incorporated, how..... 6453

LODGING-HOUSE KEEPERS—See Innkeepers

GENERAL INDEX.

LOGGER'S LIENS

See Liens.....8318- 8338

LOGS

Burning of brush and slashings—
See Timber.....2771- 2774
Cutting on state land—See State
Lands.....1872- 1881
Defacing marks upon..... 11210
Log marks for state timber..... 1876
Malicious spiking, punishment... 11505
Passage-way to be kept open..... 11575
Permitting to accumulate along
shore.....11574-11576
Punishment for violation..... 11576

LOGS AND LOGGING

Lien for driving logs..... 8336
foreclosure, how..... 8337
release from lien..... 8338
Temporary logging roads, how
taken on eminent domain.... 9957
damages to be paid, when..... 9958

LOON

Killing forbidden..... 3700

LOSSES

Liability of insurer for—See In-
surance.....8138- 8146

LOST CATTLE

See Estrays.....3333- 3345

LOST INSTRUMENTS

Duplicate of county bond or war-
rant.....4626, 4627
Duplicate of state warrant..... 159

LOST PAPERS

Contents, how proved..... 10516
How supplied..... 9817
Proof of, must be made....10585, 10586

LOST PROPERTY

Larceny of..... 11376
Rules governing finding—See Find-
ing.....7685- 7700

LOTTERIES

Aiding forbidden..... 11152
Defined..... 11149
Evidence on trial for selling
tickets..... 11986
Forfeiture of property offered in,
procedure..... 11155
Insurance unauthorized..... 8062
Insuring lottery tickets forbidden. 11154
Letting building for, forbidden.. 11156
Lottery offices, advertising forbid-
den..... 11153
Out of state included in act..... 11157
Punishment..... 11158
for drawing..... 11150
for selling tickets..... 11151

LUMBER—See Logs

LUNATICS

Are persons of unsound mind..... 5676
Cruelty to..... 11214
Use of force in managing..... 10980

LUNCH-COUNTERS

License..... 2589

LYCEUMS

How incorporated..... 6453

MACHINERY

See Engines and Machinery..4209- 4211
Borrowing of, by road districts.. 1657
Purchase for highway use..... 1623
Removal of packing from..... 11472

MADISON COUNTY

Boundaries and county seat..... 4331

MAGAZINES

See Explosives.....2786- 2815

MAGISTRATES

See also Arraignment
See also Arrests
See also Justices' and Police
Courts
Adjournment of examination,
when and where made..... 11776
Arrest
misdemeanors, admission to bail
..... 11740-11742
misdemeanors at night-time... 11757
of fugitives, notice to county
attorney..... 12423
without warrant, duty of..... 11731
Bail for appearance.....12140-12144
Commanding rioters to disperse.. 11658
Counsel for defendant, duty to
send for..... 11774
Course when postponement of ex-
amination had..... 11776
Definition of term.....16, 10713, 11618
Deposition of witness.....12191, 12192
sealing and filing of testimony. 12196
subpoena..... 12194
Duties as to property taken on
search-warrant.....12407-12414
Duty in granting search-warrant. 12397
on filing complaint charging
public offense..... 11730
to inform defendant of his
rights to counsel..... 11773
Examination of defendant to pro-
ceed, when..... 11775
Examination of insane persons be-
fore.....1431- 1437
Exclusion of witnesses on exam-
ination..... 11781
Form of commitment for exam-
ination..... 11777
Includes what..... 16
Issuance of search-warrant..... 12394
May issue subpoena..... 12179
Must issue subpoenas
for whom..... 11778
when..... 11732
Oral order of arrest..... 11755
Powers as to witnesses on commit-
ment of defendant.....11791-11795
Preliminary examination of cor-
poration.....12230-12234
Refusing to disperse rioters..... 11291
Return on arrest of fugitive from
other state..... 12426

GENERAL INDEX.

MAGISTRATES (Continued)

Security to keep the peace jurisdiction.....	11637
powers and procedure....	11637-11652
Stolen property, how to dispose of.....	12240-12246
Subpoenas, duty to issue.....	11732
Testimony at coroner's inquest to be delivered to, when.....	12387
To cause search of defendant for weapons, etc.	12414
Warrant of arrest, when to issue.	11730
What papers to be returned to court on preliminary examination.....	11796
Who are	11619

MAIL

See also Letters	
Return of commission to take deposition	12206, 12207
Service of notices by, when and how	9780, 9781

MAIL CARRIER

Exempt from jury duty.....	8893
----------------------------	------

MAIN HIGHWAYS

Defined	1613
---------------	------

MAINTENANCE

Awarded when divorce denied...	5768
In actions for divorce—See Divorce	5769- 5774

MAJORITY

Age of.....	5673
how calculated.....	5674
Appraisers may act.....	10130, 10154
Arbitrators may act.....	9976
Compensation of child after.....	5847
Executors, acts valid.....	10062
Stock to be represented at meetings	5946
Supreme court justices must concur	8806

MALES

Separate rooms in jails.....	12469, 12470
------------------------------	--------------

MALFEASANCE—See Officers

MALICE

Damages for, interest on.....	8663
Defined	10713
Exemplary damages.....	8666
Express or implied, when.....	10954
In publishing report of public proceedings, libel.....	10995
Presumed in libel suits.....	10991

MALICIOUS DESTRUCTION OF PROPERTY

Punishment for, when not otherwise provided	11474
specifications not restrictions, when	11475

MALICIOUS MISCHIEF

Altering telegraphic messages....	11495
Burning of structures, not subject of arson.....	11476

MALICIOUS MISCHIEF (Continued)

Cutting state timber.....	11507
Defacing landmarks.....	11484
Defacing public buildings.....	11506
Destruction of	
dams, canals, etc.....	11487
fences	11485
jails	11486
monuments, etc.....	11484
on mining claims.....	11491
rafts	11488
Disclosing contents of message...	11494
Driving animals on sidewalks...	11504
Enumeration of acts in code not restrictive	11475
Exposing infected clothing.....	11503
Guide-posts, injuring.....	11465
Injuries to	
books, exhibits, etc.....	11498
gas or water pipes.....	11499
highways	11464
jails	11486
objects in public libraries.....	11498
real property, trespass, when...	11481
surveyor's monuments.....	11490
trees or improvements.....	11497
Injuring building by explosives..	11477
Jurisdiction of justices' courts...	11630
Mutilation of written instrument	11492
Notices, destruction of.....	11491
Obstructing navigable rivers....	11489
Opening telegraphic messages....	11496
Railroad property, injury to....	11468
Setting adrift boats, rafts, etc...	11488
Setting fire to timber.....	11500-11502
Spiking sawlogs.....	11505
To real property.....	11481
To telegraph and telephone lines	11466
Trespass on state lands.....	11507
Water, taking from canals.....	11467
What constitutes.....	11474

MALICIOUS PROSECUTION

Joinder of actions.....	9130
Justices' courts, appeal by prosecutor from order to pay costs	12331
prosecutor to pay costs...	12330, 12331
Maliciously procuring search-warrant or arrest.....	10948

MALPRACTICE

By intoxicated physician, penalty	11193
-----------------------------------	-------

MALT

License to manufacture.....	2442
Pounds in bushel.....	4226

MALT LIQUOR

Adulteration of, penalty.....	11241
-------------------------------	-------

MANDAMUS

See Writ of Mandate.....	9847- 9860
--------------------------	------------

MANSLAUGHTER

See Homicide.....	10959-10967
Time for commencement of action	11722

MANUAL TRAINING

See Schools, Public.....	1255- 1261
--------------------------	------------

GENERAL INDEX.

MANUFACTURERS

Assessment of property.....	2016
License of.....	2441
Sale of shoddy forbidden....	2615- 2619

MANUFACTURING

Contracts, how regulated.....	7592
Warranty against defects.....	7612

MAPS

Of lands purchased by United States	25
Private, how far evidence.....	10584
Purchase by schools, limitation on	1019
Reference to, in description of real property.....	10683

MARINE INSURANCE

Defined	8153
---------------	------

MARKETING

Grain, regulation of public warehouses—See Agriculture, Labor and Industry, Department of	3573- 3592
---	------------

MARKETING ACT

See Co-operative Marketing Act.	6428- 6449
--------------------------------------	------------

MARKETS

County, and market-houses—See Counties	4488- 4494
Fraudulent practices to affect, forbidden	11258
Inspection of livestock.....	3328- 3332
Regulation by cities and towns...	5039

MARKS

See also Brands	
Defacing upon logs.....	11210
Included in signature.....	10713
On goods, implied warranty.....	7616
Signature by, how made.....	16

MARKS AND BRANDS

Recording—See Livestock...	3299, 3300
----------------------------	------------

MARRIAGE

Action not to abate by reason of	9086
Administratrix, effect of.....	10073
Age of consent.....	5696
Agreement	
in consideration of.....	10613
writing necessary.....	7519
Annulling	
action	
by whom commenced.....	5730
for	5728
when to be commenced.....	5730
causes for.....	5729
children, rights of.....	5731
custody of children, award of..	5732
education and maintenance of children	5732
effect of judgment of nullity...	5733
void marriage may be annulled	5728
Bar to prosecutions, when..	11006, 11007
Bigamy	11025-11027

MARRIAGE (Continued)

Breach of promise, damages in discretion of jury.....	8685
Causes for annulling.....	5729
Certificates	
entry and return of.....	5716
form of.....	5717
indexes by county clerk.....	4799
penalty for failure to return...	5718
prima facie evidence.....	5720
to be given.....	5721
Chastity, want of, effect on promise	5706
Code provisions applicable to contract	5708
Conditions in restraint of, void..	6703
Consent as constituting.....	5695
Consent of parent or guardian, when necessary.....	5712
Contracted out of state	
void, when.....	5703
when valid.....	5707
Contracts	
in restriction of, void, when....	7562
not specifically enforced.....	8720
to, voidable, when.....	5706
Cousins, prohibited.....	5699
Coverture no defense to action, when	9892
Damages for breach of promise...	8685
Declaration	
acknowledgment and record....	5726
action to test validity.....	5727
contents of.....	5725
how made.....	5724
of decedent may be proved....	10531
Defined	5695
Desertion—See Divorce.....	5739- 5746
Dissolved, how.....	5734
Divorce—See Divorce.....	5734- 5781
effect of.....	5735
Effect of, after marriage, on wills	7001, 7002
False return or record of.....	11213
Fines for violation of act, disposal of.....	5723
Forbidden, when.....	5699
Grounds for annulling.....	5729
Guardianship, effect marriage of ward	10407, 10457
How	
authenticated	5709
manifested and proved.....	5697
Husband may select home.....	5745
Incapacity, ground for annulling.	5729
Incest	11029
Incestuous, when.....	5699
Incompetency of parties, when..	5699
License	
certificate, form of.....	5717
certification and return.....	5716
clerk may require evidence...	5715
consent of parents, when.....	5712
contents of.....	5713
obtained where.....	5711
penalty for failure to return...	5718
refusal, when.....	5714

GENERAL INDEX.

MARRIAGE (Continued)

Manifested, how.....	5697
Marrying husband or wife of another, penalty.....	11028
Not invalidated by lack of authority, when.....	5719
Of testator, effect on wills.....	7000
Penalty for solemnizing forbidden marriage.....	5704
Polygamy forbidden.....	5705
Presumption of, from cohabitation	10606
Proved, how.....	5697
Provisions of code not applicable	5708
Relatives, forbidden, when.....	5699
Separation—See Divorce.....	5741-5744
Solemnization, no special form... by whom.....	5722-5710
Solemnizing forbidden marriages.	11212
Spouse living, illegal, when.....	5705
Subsequent marriage illegal, when	5705
Under false personation, punishment.....	11406
Use of force to compel, punishment for.....	11004
Void, when.....	5699-5705
Voidable, when.....	5698
Want of compliance does not invalidate.....	5709
Whites and Chinese, void.....	5701
Whites and Japanese, void.....	5702
Whites and negroes, void.....	5700
Who may solemnize.....	5710
Witnesses required.....	5722

MARRIAGE SETTLEMENT

See Husband and Wife.....	5804-5807
Contracts, how executed.....	5804
acknowledgment and record...	5805
effect of recording.....	5806
minor may make.....	5807

MARRIED WOMEN

See also Husband and Wife	
Acknowledgments by, how taken.	6911
effect of conveyance by.....	6912
Assignment of dower out of estates—See Probate Proceedings.....	10158-10168
Consent of husband not necessary to conveyance.....	5792
Contracts, liability for.....	5810
may make.....	5811
Deeds, acknowledgment of.....	6861
Divorce of—See Divorce....	5734, 5781
Dower rights—see Dower....	5813, 5828
Effect of conveyances by.....	6912
Eligible as guardians.....	10405
Execution of powers by....	6800, 6801
False pretenses by, on sale of land	11413
Form of acknowledgment by....	6916
Homesteads—See Homesteads	6945-6973
Incapable of committing crime, when.....	10729
Judgments for or against.....	9319
May	
act as administratrix, executrix, guardian or trustee.....	5808, 10059, 10073

MARRIED WOMEN (Continued)

May (continued)	
execute power without concurrence of husband.....	6800
prosecute and defend actions for what.....	5791
sue and be sued.....	5809
Power of attorney by, how acknowledged.....	6862
Release dower interest on partition, how.....	9569
Right	
as to holders of stock.....	5955
dividends payable to.....	5955
to sue and be sued.....	9069
Right of action for injury from sale of liquor.....	11065
Security for appearance as witness, when given.....	11793
Selection of homestead from separate property of.....	6947
Sole trader—See Sole Trader	9982-9989
When incapable of crime.....	10729
Wife may defend, when.....	9070
Wills, restrictions on making.....	6975
Witness against husband, when..	10536

MARSHAL OF SUPREME COURT

Accounts of.....	369
Appointment and term.....	366
Duties.....	367
Salary and expenses.....	363

MARSHALING

Of assets as between creditors... of legacies.....	8602-7053-7055
of liens.....	8237

MARSHALS—See Peace Officers

MARTEN

Killing and trapping regulated..	3722
Open season for.....	3704

MASCULINE GENDER

Includes what.....	16, 10713
--------------------	-----------

MASKS

Wearing, prohibited, when.....	11571
--------------------------------	-------

MASTER AND SERVANT

See also Employer and Employee.....	7756-7793
See also Workmen's Compensation Act	
Blacklisting prohibited.....	11219
Compulsory boarding-houses:....	11223
Discounting wages, extortion....	11403
Employer requiring employee to release from liability.....	11402
Extortion, immunity of witnesses	11405
False representations to workmen	11220
Foremen soliciting gifts.....	11404
Injury to servant, violation of personal relations.....	5693
Refusal to give names of employees for taxation.....	11327
Renewal of hiring, when.....	7797
Servant defired.....	7794
Servant may be discharged, when	7800

GENERAL INDEX.

MASTER AND SERVANT (Continued)

Servant to pay over without demand	7799
Term of hiring, what presumed..	7795
presumed monthly, when.....	7796
Time of service of domestic servant, belongs to whom.....	7798
Unlawful acts of employers, relative to elections.....	10770

MATERIAL ALLEGATIONS

Defined	9180
Evidence must conform to.....	10529
Necessity for proof.....	10528
Of pleadings, when deemed true..	9178

MATERIALMEN'S LIENS

See Liens.....	8339- 8350
----------------	------------

MAXIM SILENCERS

Manufacture or sale for wrongful use a felony.....	11281
Possession of, presumptive evidence	11283
Principals defined.....	11282
Use in hunting forbidden....	3694, 3759

MAXIMS

Acquiescence in error, effect.....	8745
Advantage of own wrong cannot be taken.....	8746
Aid in application of code.....	8738
Apparent existence, how regarded	8759
Certain which can be made certain	8767
Change of purpose to injury of another	8741
Confirmation of void acts.....	8768
Consent to act, effect of.....	8744
Contemporaneous expression the best	8764
Effective interpretation preferred	8770
Equality of right or wrong, effect on law.....	8753
Failure to forbid acts, effect of..	8748
Fraudulent dispossession, effect of	8747
Grantor of thing grants essentials	8751
Greater contains less.....	8765
Idle acts.....	8761
Impossibility not required.....	8760
Incident follows principal.....	8769
Innocent persons, who to suffer for negligence.....	8772
Interpretation must be reasonable when preferred.....	8771
Law aids vigilant.....	8770
respects substance.....	8756
Particular expressions qualify..	8757
Preference of equal rights, how..	8763
Reason for rule, cessation of.....	8754
Reason same, rule same.....	8739
Remedy for every wrong.....	8740
Remedy for every wrong.....	8752
Responsibility for things uncontrollable	8755
Rights, how used.....	8743
Suffering for act of another.....	8749
Superfluity does not vitiate.....	8766
Taker of benefits, to bear burden	8750
Taking advantage of wrong.....	8746
Things regarded as done, when..	8758

MAXIMS (Continued)

Time does not confirm void act..	8768
Trifles disregarded.....	8762
Waiver of benefits of law.....	8742

MAYHEM

Defined	10968
Punishment	10969

MAYORS

See Cities and Towns	
Duty to	
enforce gambling laws.....	11170
enforce law relating to sale of toy pistols and caps.....	11313
order force to preserve peace, when	11654
May solemnize marriage.....	5710

McCONE COUNTY

Boundaries and county seat.....	4332
---------------------------------	------

MEAGHER COUNTY

Boundaries and county seat.....	4333
---------------------------------	------

MEASUREMENT

Of water.....	7107, 7132
---------------	------------

MEASURES

See Weights and Measures	
--------------------------	--

MEAT

Label on imported.....	2632
penalty for violation of act....	2633
License to slaughter and sell....	
.....2589, 3283-	3285
required	3348
exception	3348
fee and disposal.....	3348
penalty for violation of act..	3349
Sale of diseased carcasses forbidden, when.....	11243, 11244
Sale, when unsanitary, forbidden	3269
Slaughter-house to keep record of cattle killed.....	3347
Unsanitary	
meat to be seized.....	2586
slaughter of.....	2584

MEAT AND MILK INSPECTORS

Bond	466
----------------	-----

MEAT MARKETS

See also Slaughter-houses	
License	2589, 3283, 3285, 3348

MECHANICS

Exemptions	9428
----------------------	------

MECHANICS' LIENS

See Liens.....	8339- 8350
Index by county clerk.....	4799

MEDICAL AID

Railroad employees may call physician for injured trainman..	6602
Railroads to furnish to injured trainmen	6602- 6604
When furnished to indigent children	1015

GENERAL INDEX.

MEDICAL EXAMINERS, BOARD OF

See Medicine.....3116- 3124

MEDICINAL PREPARATIONS

Exception prohibition act..... 11050

MEDICINAL PURPOSES

License to dispense liquors for—
See Intoxicating Liquors....
.....11095-11099

MEDICINE

Certificates
penalty for practicing without. 3122
recording of..... 3120
revocation of..... 3119
Exceptions from act..... 3121
Medical examiners, board of
annual report..... 3124
appointment and qualifications. 3116
appeals from
bond and trial..... 3119
verdict 3119
certificates and revocation.... 3119
compensation 3124
examination of applicants..... 3118
fees for examination..... 3123
fund 3124
meetings 3117
organization, officers and
quorum 3117
recording certificates..... 3120
records of..... 3117
revocation of certificates..... 3119
second examination..... 3123
temporary certificates, issuance
of 3118
term 3116
Penalty for poisoning..... 11194
Physicians and surgeons
duty to report
communicable diseases..... 2479
venereal diseases..... 2572
penalty for false certificate of
physical disability..... 1339
registration with bureau of
vital statistics..... 2535
register of
births—See also Vital Sta-
tistics, State Bureau of 2515- 2539
deaths—See also Vital Statis-
tics, State Bureau of. 2515- 2539
venereal diseases, duty concern-
ing reports and certificates.. 2572
Practicing, defined..... 3122
Sale of adulterated, forbidden... 11242

MEETINGS

City council, special..... 5030
County commissioners..... 4457, 4462
Disturbing other meetings..... 11284
Disturbing religious meetings.... 11042
First meeting of banks..... 6024
Of Corporations—See Corporations
.....5943- 5951
Preventing electors from meeting 10765
Preventing legislative meeting... 10834
School trustees..... 1006

MEMBERSHIP

House of representatives.....44- 47
Senate 42, 43

MEMORANDUM

Attached property to be given... 9268
Auctioneers' books..... 7631
Costs to be furnished..... 9803
Statute of frauds requires, when. 7519
on sale of personal property... 7591
of real property..... 7593
Witness may refresh memory by. 10664

MEMORIAL DAY

Holiday 10
School not to be held on..... 1062

MENACE

Avoids contracts..... 7475
Commission of crime under..... 10729
Grounds for rescission..... 7565
What constitutes..... 7478

MERCHANDISE

Fakers defined, and punishment.. 11425
False advertising forbidden.11422, 11424
Prison-made goods to be stamped.
.....11572, 11573
Sales in bulk.....8607- 8611
Warranty on sale—See Warranty
.....7606- 7614

MERCHANTS

Assessment of property..... 2016
Commission merchants.....4183- 4185
License for premium and trading
stamps—See Licenses...2430- 2433
Regulation of weights and meas-
ures—See Weights and Meas-
ures 4235- 4264
Sale of game, when permitted... 3737

MERGER

Civil and criminal remedies..... 9007
Of oral statements in written con-
tract 7520
Oral negotiations, when..... 10517

MERRY-GO-ROUNDS

License 2438

MESNE PROFITS

Limitation of actions..... 9028

MESSAGES

See Carriage.....7844- 7845
Common carriers of—See Common
Carriers 7875- 7877
Forgery of telegraphic..... 11359
Opening telegraphic..... 11496

METALLIFEROUS MINES

LICENSE TAX

See Taxation.....2344- 2355

METERS

False, for measuring gas, etc.... 11387

METROPOLITAN POLICE LAW

See Cities and Towns.....5095- 5108

GENERAL INDEX.

MIDWIVES

Penalty for failure to furnish birth certificates.....	2538
Registration of.....	2535

MIGRATORY LIVESTOCK

Taxation of—See Taxation..	2069- 2075
----------------------------	------------

MILE

Yards in.....	4215
---------------	------

MILEAGE

County officers.....	4884
Court stenographers.....	8933
How computed.....	4901
on double service.....	4900
Jurors.....	4884
how computed.....	4937
Members of legislative assembly.	4884
Sale of railroad mileage.....	6586
School trustees.....	958
Sheriff.....	4885
amount allowed.....	4916
for transportation of prisoners.	4885
penalty for false representation of.....	4909
State officers.....	4884
Witnesses.....	4884, 4936
Witnesses in disbarment proceedings.....	8955

MILESTONES

Injuring of.....	11465
------------------	-------

MILITARY

Duty, exemption from, on election days.....	542
Officers, designation of.....	110

MILITARY AND NAVAL SERVICE

Preference discharged veterans in public employment.....	5653
Right of state to require.....	26
Suspension of taxation of persons in.....	2236, 2237
Voting by electors in—See Elections.....	736, 756

MILITARY OFFICERS

Exempt from jury duty.....	8893
----------------------------	------

MILITARY RESERVATIONS

Authority of United States over.	21
Service of process in.....	21

MILITIA

Act designated the military code	1330
Actions against members of—See subtitle suits.....	1347
Adjutant-general	
appointment, rank and duties..	1346
bond.....	464, 1349
department of	
composition of.....	1346- 1349
to administer.....	1332
duties.....	1349
expenses.....	1349
powers.....	1349
term.....	1346

MILITIA (Continued)

Armories	
establishment and maintenance	1400
regulations governing.....	1406
Arrest, exemption from.....	1378
Articles of war	
enumeration of.....	1398
of the United States to govern	1404
Authority of commanding officer.	1382
Brigadier-general, promotion to..	1359
Camp duty.....	1377
Claims against national guard, presentation and allowance..	1373
Colonel, promotion to grade of...	1358
Commander-in-chief	
may order enrollment, when...	1340
to promulgate regulations.....	1406
Commanding officers	
authority	
of.....	1382
to prohibit auction sales and gambling.....	1382
to remove disorderly persons	1382
penalty for disobedience of rules.....	1382
Commission of officers.....	1350, 1351
Compensation of officers and enlisted men.....	1375
Composition of.....	1331
County in state of insurrection..	11666
Courts and court-martial—See subtitle military courts	
Death of enlisted men, effects, how disposed of (Art. 56).....	1398
Definition of officers and enlisted men.....	1397
Desertion, failure to obey call constitutes.....	1338
Discharge of enlisted men.....	1369
Dismissal of officers, for what cause.....	1364
Duty to order dispersal before attacking rioters.....	11665
Emergency calls.....	1412
Enlisted men	
defined.....	1397
duties and rights under articles of war.....	1398
Enlistment in national guard	
period of.....	1368
qualifications for.....	1368
Enrollment of persons subject to military duty	
commander-in-chief may order, when.....	1340
compensation of enrolling officers.....	1344
enrolling officers to examine assessment-rolls and poll-lists..	1345
exemptions from.....	1342
form of.....	1340
notice of enrollment, service and return.....	1341
penalty for dereliction or false certificate.....	1343

GENERAL INDEX.

MILITIA (Continued)

Enrollment of persons subject to military duty (continued)	
persons liable to.....	1340
return as evidence.....	1341
verification and filing of rolls..	1340
Examination of assessment-rolls and poll-lists.....	1345
Exemption from	
enrollment	1342
jury duty and poll-tax.....	1401
of	
members from arrest.....	1378
military property from execution and taxation.....	1372
Expenses, allowance for incidental	1380
False certificate by physicians, penalty for.....	1339
Fees and mileage for service and witnesses, how paid.....	1396
Fraudulent claims, articles of war concerning	1398
Governor	
as commander-in-chief.....	1332
may organize and change.....	1333
personal staff of.....	1348
to promulgate general orders..	1409
Incidental expenses, allowance for	1380
Interference with employment of members of militia, penalty..	1379
Judge advocate (Art. 30).....	1398
Jury duty, exemption from.....	1401
Lease of property of national guard to state.....	1407
Lieutenant-colonel, promotion to.	1358
Major, promotion to grade of....	1357
Marksmanship, prizes for.....	1403
Military courts	
classes of.....	1385
contempt of court.....	1395
county and city jails to receive persons committed.....	1394
definition of terms.....	1397
evidence in, how produced....	1392
fees and mileage.....	1396
general	
conduct of.....	1398
courts-martial	1386
judge advocate.....	1398
jurisdiction of.....	1391
kinds of.....	1384
oath of	
interpreter	1398
judge advocate.....	1398
members	1398
penalty for failure to obey call	1338
power to sentence to confinement	1389
process writs and mandates...	1394
sentence	
to confinement.....	1389
when to be approved by governor	1390
serving out fine, rate of.....	1394

MILITIA (Continued)

Military courts (continued)	
special courts-martial.....	1387
subpoena, how to issue.....	1392
summary court officer.....	1388
witnesses	
penalty for failure to attend	1393
privileges	1393
Military orders, use of insignia prohibited	1410
Military tribunals defined.....	1384
National guard	
composition of.....	1335
of Montana	1331
period of enlistment in.....	1368
qualifications for enlistment in reserve	1367
Oath	
form of.....	1363
of judge advocate and members of court.....	1398
of officers	1362
Offenses, prosecution.....	11607
Officers	
commissioned	
by governor	1350
detailed to staff.....	1356
examination of.....	1351
promotion of.....	1355
retirement or discharge.....	1351
selection by examination to fill vacancy.....	1354
defined	1397
detail of.....	1352
discharge for cause.....	1364
dismissal of commissioned, for cause	1364
eligibility for staff assignment	1353
oath	
form of.....	1363
of	1362
promotion	
may be waived.....	1361
to grade of	
brigadier-general of the line	1359
lieutenant-colonel and colonel	1358
major	1357
while in service of the United States	1360
qualifications of.....	1350
resignation of.....	1364
responsibility under articles of war	1398
retirement of, when.....	1366
seniority of.....	1365
staff, how chosen.....	1352
uniform allowance of.....	1370
Organized militia	
additional organization.....	1333
articles governing.....	1398
composition of.....	1333
declaration of policy concerning	1334
governor may order out, when.	1336
how ordered out to control public assemblages.....	1336

GENERAL INDEX.

MILITIA (Continued)

Organized militia (continued)	
strength of.....	1333
subject to	
call for federal service.....	1334
federal laws.....	1334
Pay of officers and enlisted men..	1375
Penalty for failure to obey call...	1338
Pension, when granted.....	1376
Personal staff of governor.....	1348
Physical disability, how proved..	1338
Physicians, penalty for making	
false certificate.....	1339
Prizes for marksmanship.....	1403
Promotion—See subtitle officers	
Property	
leased to state.....	1407
of militia, buying or receiving	
prohibited	1374
of organized militia to be public	1371
wrongful taking from armory..	1408
Railroad transportation not to ex-	
ceed one cent per mile.....	1402
Reserves, composition of.....	1367
Retaining arms, etc., unlawfully..	11332
Retirement of officers, when.....	1366
Rifle ranges.....	1399
and rifle club, regulations gov-	
erning	1406
Right-of-way for military officers	1378
exceptions	1378
Riots, firing upon mob.....	11664
Selling arms unlawfully.....	11333
Seniority of officers, order of....	1365
Sentinels, articles of war govern-	
ing	1398
Staff officers, how chosen.....	1352
Suits against officers and enlisted	
men	1347
attorney-general to defend....	1347
cost bond.....	1347
procedure	1347
To	
aid in execution of process,	
when	11657
obey call.....	11661
quell riots.....	11657
Transportation and subsistence	
how paid.....	1381
rate per day for horses.....	1381
state to furnish.....	1381
transportation of quartermaster	
stores	1381
Unauthorized associations forbid-	
den	1405
Under orders of sheriff, when....	11663
Uniform allowance of officers....	1370
United States army usages to gov-	
ern, when.....	1411
Unlawful possession of arms be-	
longing to.....	11332
Unorganized	1331
governor may order out, when..	1337
Use of insignia of military orders	
prohibited	1410
Vacancies, how filled by promo-	
tion	1360

MILITIA (Continued)

Warning for duty, service and re-	
turn	1383
Wearing uniform without author-	
ity	11558
When	
governor may call out.....	11660
to obey civil officer.....	11662
Witnesses	
penalty for disobedience of sub-	
poena	1393
privileges	1393

MILK

See also Dairies and Dairy Prod-
ucts

Adulterated, sale of, forbidden..	2620
Adulteration prohibited.....	2580
Inspection by livestock sanitary	
board	3267
Keeping cows in unhealthy places	11513
License for producers of.....	3282
Monopoly discrimination in, for-	
bidden	2630
Regulation of containers.....	4254
contents to be indicated.....	4255
Sale of, from diseased cows.....	11540
Skim-milk	
products to be marked.....	2581
sale of, regulated.....	2628
Standard of measurement for....	3571
Tuberculin test of dairy cattle—	
See Tuberculin	

MILLS

Accountability for safe-keeping	
of grain.....	3930
Penalty for taking excessive toll	3931
Regulation of public—See Trade	
Commission for Regulation of	
Public Mills.....	3914- 3946

MILLSITES

Claims, how located.....	7369
--------------------------	------

MINERAL COUNTY

Boundaries and county seat.....	4334
---------------------------------	------

MINERAL RESERVATIONS

Value, how determined for taxa-	
tion	1999

MINERALS

Lease on state lands.....	1882
---------------------------	------

MINERS

Exemptions	9428
----------------------	------

MINER'S CONSUMPTION

See Tuberculosis Sanitarium,	
State	1511- 1525

MINER'S INCH

Equivalent in gallons.....	7108
----------------------------	------

MINES AND METALLURGY, STATE BUREAU OF

Director and assistants	
appointment of.....	883
oath of office.....	888
Establishment of.....	882
Mineral specimens, disposal of...	887

GENERAL INDEX.

MINES AND METALLURGY, STATE BUREAU OF (Continued)

Objects and duties.....	884
Reports to legislature.....	885
printing and distribution of...	886

MINES AND MINING

Abandoned claims, relocation, how	7370
Accidents, investigation of.....	3423
Actions	
by cotenant against joint-tenant concerning, governed by local rules	9091
for waste or trespass accrues, when	9499
to recover claims	
court may order survey and measurement, when.....	9033
liability for injuries.....	9492
occupant defined.....	9493
order, contents and service...	9888
procedure to obtain order for examination	9493
9494	
Adverse claims under acts of congress, rules governing.....	9500
Affidavit of performance of annual work, contents and filing....	7368
Amended	
location, when and how made..	
.....7372,	7379
or additional statement, effect of	7380
Amendment not waiver of acquired rights.....	7374
third persons not affected.....	7375
Assayers—See subtitle ore	
Cages, how constructed and operated	11268
Changing samples of ore for assay	11420
Children, employment prohibited	3101
penalty for.....	3102
Claims in national forests to be marked	3380- 3382
Coal mine inspector	
board of examiners	
notice of examination.....	3463
oath and meetings.....	3463
percentage necessary on examination	3463
certificates of qualification, how and to whom granted.....	3472
compensation of members of board	3465
examinations, how conducted..	3460
examiners of coal mine inspectors, appointment and term..	3459
fire boss, certificate of competency	3460
holding of examination.....	3464
mine examiner, certificate of competency	3460
mine foreman	
certificate of competency....	3460
scope of examination.....	3460
requisites for certificate.....	3460
state coal inspector, how selected	3460

MINES AND MINING (Continued)

Coal mines	
abandoned	
to be indicated.....	3485
workings, precautions.....	3508
accidents, duty of inspector...	3539
air	
and traveling ways, examination of.....	3513
bridges, construction of.....	3506
currents in.....	3503
ways	3511
ambulance to be provided.....	3535
annual surveys.....	3484
attorneys' fees allowance in suits	3545
blankets to be provided.....	3535
blasts	
regulation of firing.....3520-	3524
use of copper tools.....	3523
boundary lines, distance from workings	3537
buildings on surface, how erected	3496
cages	
construction of.....	3489
operation of.....	3533
code of signals.....	3541
combustible matter, protection of	3514
connection with adjacent mine to be provided.....	3492
copper tools to be used.....	3523
coroners' inquests, where held.	3540
county examining board	
application for examination.	3476
appointment by district judge	3470
certificate	
fee for.....	3475
of	
competency	3471
fitness, to whom granted	3474
qualification, contents of	3472
without examination, when	3475
compensation	3477
examinations by.....	3471
fees	3475
mine examiner, qualifications of	3473
oath of.....	3470
definitions	3546
depositing slack in streams forbidden	11276, 11277
distance of escapement from main shaft.....	3495
drainage traveling ways.....	3512
duty of general employees....	3528
loitering about mines.....	3530
employer, duties of.....	3528
employment	
of men for escapement connections	3493
of over ten men prohibited..	3493
escapement shafts	
and passage-ways.....	3494
communication with adjacent mine	3500

GENERAL INDEX.

MINES AND MINING (Continued)

Coal mines (continued)	
escapement shafts (continued)	
duty to provide.....	3492
inspection of.....	3499
obstructions in.....	3498
penalty for failure to provide	3545
ventilation of.....	3501
escapements, distance from	
main shaft.....	3495
examination of ways by fore-	
man	3513
examiners of mine inspectors	
—See subtitle mine inspec-	
tors, examiners of	
excavations, defined.....	3546
explosive	
handling of.....	3522
storage of.....	3521
false weights.....	3488
following shot, defined.....	3546
foreman and examiners—See	
subtitle mine foreman and	
mine examiners	
hauling roads.....	3510
hoisting	
and lowering men, regulations	3533
engineers, duties of.....	3542
shafts, equipment of.....	3489
illuminating oil, regulation of	
use	3536
inspector of coal mines	
appointment by industrial ac-	
cident board.....	3448, 3466
charges against, citation....	3457
duty to inspect in case of ac-	
cidents	3539
ex officio sealer of weights	
and measures.....	3454
examination of weights and	
measures	3454
examinations by.....	3450
instruments to be furnished..	3452
names to be filed with gov-	
ernor	3462
not to be employed by com-	
panies	3451
operator to furnish facilities	3456
penalty for violation of duty	3458
powers and duties.....	3450
prosecution by county attor-	
ney	3545
provided with standard	
weights	3455
qualifications of.....	3449
removal of, procedure.....	3458
report of.....	3451
to post plan of mine.....	3453
intoxicants, use forbidden....	3530
lights on landings.....	3532
machine men, duties.....	3526
map	
for every seam.....	3481
of mines.....	3479
underground survey, how	
shown on.....	3480

MINES AND MINING (Continued)

Coal mines (continued)	
map (continued)	
of surface.....	3482
changes of.....	3484
copies for inspector.....	3483
to show abandoned mines..	3485
to show underground survey.	3480
medical equipment to be pro-	
vided	3535
men to come out, when.....	3534
mine	
defined	3546
examiners	
appointment and duties...	3516
defined	3546
foreman	
defined	3546
employment and duties....	3515
penalty for acting without	
certificate	3478
inspectors, examiners of	
application for examination	3461
appointment and term.....	3459, 3467
certificate of fitness.....	3460
compensation and expenses	3465
examinations	3464
scope of.....	3460
meetings and oath of office	3463
percentage required.....	3463
rules	3468
vacancies	3469
miners	
exercise of care.....	3525
qualifications of.....	3543
motormen and drivers, duties..	3527
notice, when given to inspec-	
tors	3538
oil, regulation of use.....	3536
operator defined.....	3546
passage-way to escapement	
shaft	3494
penalty for	
acting as foreman, etc., with-	
out certificate.....	3478
violation of act.....	3545
pressure gauges.....	3502
regulations for hoisting or low-	
ering men.....	3533
riding on haulage trips.....	3529
roofs, propping of.....	3509
safety lamps.....	3517
blasts not to be fired, when..	3520
keys for.....	3519
to be used, when.....	3518
shafts	
defined	3546
escapements	3499
gates at top.....	3491
hoisting shafts, equipment of	3489
passage-ways at bottom....	3490
shooting, regulation of.....	3524
signals, code of.....	3541
slope or drift, defined.....	3546
stables, regulation of.....	3507
stairways or cages, in escape-	
ment shaft.....	3497

GENERAL INDEX.

MINES AND MINING (Continued)

Coal mines (continued)	
statistical inquiries, replies to.	3544
stretchers	3535
timber and supplies.....	3509
title of act.....	3447
top and bottom men.....	3531
traveling ways, obstructions forbidden	3512
trip riders, duties of.....	3527
two places of egress to be pro- vided	3492
underground stables.....	3507
ventilation	
air bridges and overcasts....	3506
crosscuts and brattices.....	3504
fans and furnaces.....	3505
regulation of.....	3501
wash-houses for employees.....	3486
working places, care of.....	3525
weighmen and check weighmen appointment	3487
false weights.....	3488
oath and duties.....	3487
prosecution of.....	3488
Consolidation of mining corpora- tions	6650
Corporate stock issued in payment for mines purchased.....	5970
Defective locations	
good, when.....	7377
validated by subsequent record	7376
Deputy mine inspector, salary of	440
Destruction of notices forbidden.	11494
Discovery	
notice, posting of.....	7365
shaft	
cubical contents.....	7365
sinking of.....	7365
Effect of earlier-recorded mining locations	7367
Engineer, when subject to prose- cution	11272
Escapement shafts, how con- structed	11273, 11274
Explosives, storage in mines—See also Explosives.....	2807
False	
pretenses in selling.....	11419
samples of ore.....	11421
Fixtures attached to mines.....	6670
Hours of labor underground.....	3071
smeltermen, etc.....	3072
Index of claims and work kept by county clerk.....	4799
Inspection of	
by commissioner of agriculture, labor and industry.....	3637
coal mines—See subtitle coal mines	
quartz mines—See subtitle quartz mine inspectors	
violation of regulations.....	11280
Liability of companies for injury to employees.....	7761- 7765
Location of	
claims on state land.....	1905, 7381
proof of mineral character..	1906

MINES AND MINING (Continued)

Location of (continued)	
mining claims, how made.....	7365
Maintaining buildings near mouth of shaft.....	11271
Malicious injury to, penalty....	11487
Marking boundaries.....	7365
Metalliferous mines license tax— See Taxation.....	2344- 2355
Millsite claims, how located.....	7369
Mine foreman	
certificate of competency.....	3460
procedure to revoke.....	3460
examination of.....	3460
Mining corporations	
consolidation, procedure for...	6650
liability for damages to em- ployees	7761
contract of insurance no bar.	7764
survival of action.....	7765
transfer agencies	
establishment authorized....	6648
issuance of stock by.....	6649
Mining partnerships—See Part- nerships	8050- 8059
Monuments, of what kinds.....	7365
Obstruction of shafts, penalty for	11580
Oil and gas wells—See Oil and Gas	3547- 3554
Ore	
duty to furnish statement of proceeds	
civil penalty for violation of act	3445
criminal penalty for violation of act.....	3446
settlement for, when made...	3444
payment for by smelters, time for	3442
penalty for violation of act..	3443
salting samples forbidden.....	3438
samples to be retained.....	3437
sampling room.....	3436
umpire assayers.....	3439
selection and notice.....	3440
violation of act.....	3441
Owners have right-of-way, when.	7382
Patent, effect of issuance.....	7378
Penalty for	
salting ore.....	3438
violation of laws governing....	11280
Period of time mandatory, when.	7377
Placer, interference with flumes..	11467
Protection of underground miners	11273-11275
Punishment for violation of act	11272-11275
Quartz mines	
accidents, investigation.....	3423
code of signals.....	3429
penalty for violation of act.	3430
finer, disposal of.....	3431
inspectors—See subtitle quartz mine inspectors	
penalty for violation of act....	3426
protection of underground workings	3434

GENERAL INDEX.

MINES AND MINING (Continued)

Quartz mines (continued)	
quartz mine inspectors	
annual inspection and report	3422
appointment and term.....	3418
code of signals.....	3429
duties as to inspection.....	3419
inspection on complaint.....	3420
investigation after accidents	3423
notice	
evidence of what.....	3421
to owner, of defects...3421,	3422
report to industrial accident	
board	3424
safety apparatus.....	3427
penalty for failure to provide	3428
taxation—See Taxation...2088—	2096
to what mines applicable.....	3425
toilet places.....	3433
underground	
stables	3433
workings	
how protected.....	3434
penalty for violation of act	3435
ventilation of.....	3432
what mines included in act....	3425
Record of location, contents and	
filing	7366
Relocation	
by owner, when.....	7373
how made	7370
not waiver of acquired rights..	7374
rights of relocators.....	7371
Right-of-way for road or ditch,	
when	7383
Right-of-way, proceedings to ob-	
tain	
appeal from assessment of dam-	
ages, how taken.....	7390
appeal to supreme court.....	7393
costs, how paid.....	7392
trial on.....	7391
commissioners to assess dam-	
ages	7387
to be appointed.....	7386
report may be set aside.....	7388
complaint, contents and filing..	7384
proceedings before court.....	7385
right-of-way obtained upon pay-	
ment of damages.....	7389
Rights of third persons not af-	
fected by amendment or relo-	
cation	7375
Running cage at excessive speed.	11270
Sale of mines belonging to estates	
—See Probate Proceedings..	
.....	10205—10209
Salting prohibited.....	11419
Scope of act.....	11274
Shafts in cities to be protected...	11267
Sinking shaft.....	7365
Stationary engineers running	
cages at excessive speed.....	11272
Stock	
certificates may be issued to	
bearer	5959
issued in payment of mines...	5970

MINES AND MINING (Continued)

Stopping near shaft forbidden....	11269
Taxation, net proceeds of—See	
Taxation	2089— 2096
Transfer agencies, power to es-	
tablish	6648, 6649
Validation of certain prior loca-	
tions	7376
Vice-principals, liability for neg-	
ligence of.....	7761

MINING INSPECTOR

Duty as to safety of cages.....	11268
---------------------------------	-------

MINISTERS

Cannot be witnesses, when.....	10536
Exemptions	9428
May solemnize marriage.....	5710

MINORS

See also Apprentices.....5890—	5899
See also Children	
See also Infants	
See also Parent and Child	
Admission to places of prostitu-	
tion	11046
Adoption of—See Adoption..5856—	5867
Appear only by guardian.....	9071
Application of income to support,	
when	6713
Appointment attorney for, in pro-	
bate proceedings.....	10370
Attendance at part-time schools—	
See Schools, Public.....1141—	1156
Bank deposits by.....	6067
Capable of committing crime,	
when	10729
Capacity to contract.....7469,	7470
Civil liability for wrongs.....	5686
Contracts for necessities.....	5681
Custody	
how regulated.....	5677
rules for awarding.....	5878
wife may obtain, when.....	5851
Defined	5673
Delegation of power forbidden...	5678
Deposits in banks by.....	6067
Disaffirmance by	
cannot disaffirm what.....	5682
contract for necessities.....	5681
contracts subject to power....	5679
how and when may disaffirm...	5680
Effect indorsement negotiable in-	
strument by.....	8429
Exemplary damages, when.....	5686
Father or mother may sue for in-	
jury or death of.....	9075
Guardian	
ad litem	
in actions for dower.....	10162
when appointed for....9071,	9630
to conduct suit.....	5687
Guardianship of—See Guardian-	
ship of Minors.....10401—10411	
property—See Guardian and	
Ward	5868— 5889
Liable for wrongs.....	5686

GENERAL INDEX.

MINORS (Continued)

Marriage	
age of.....	5696
consent of parent, when necessary	5712
settlements by.....	5807
Minority, how calculated.....	5674
Not to frequent pool-halls.....	11191
Power to contract.....	5679
Protection of dependent—See Protection of Dependent and Neglected Children...	10465- 10486
Rape, proof of ability to commit.	11001
Receiving stolen property evidence	11388
Rights, how enforced.....	5687
Rules for awarding custody.....	5878
Security for appearance as witness, when given.....	11793
Selling	
or giving obscene literature to.....	11134, 11135
tobacco to, forbidden.....	11047
Statute of limitations in real actions	9026
Stockholders in corporations.....	5947
Summons, how served on.....	9111
Support of minor children—See Parent and Child.....	5830- 5856
Time for commencing action by..	9049
Use of firearms prohibited.....	11565
Wages, to whom paid.....	5849
When entitled to letters of administration	10071

MINUTES OF COURT

Clerk to enter order granting leave to file information....	11627
Reason for dismissal of action...	12227
Transcript of, when used on appeal	12045

MISBRANDED

Food and drugs	2587
Gasoline and oils	4206

MISCARRIAGE

Advertising to procure.....	11142
Submitting to attempts to produce	11024

MISCHIEF—See Malicious Mischief

MISCONDUCT

See also New Trial	
Of attorneys	10938

MISDEMEANOR

See also Criminal Offenses	
Acts punishable as, when not otherwise provided	10951
Aiding in, punishment	11586
Arraignment, defendant's presence not required	11876
Arrest in daytime, exception	11757
Bail	11740, 11742, 11748
Compromised, when	12220
Crimes, classes as, when	10723
Definition of term	10723

MISDEMEANOR (Continued)

Dismissal a bar	12229
Jurisdiction of justices' courts.....	8842, 11630
Jury, number required	11929
Jury trial for, number in.....	8887
Limitation, defendant out of state	11725
indictment quashed, time not counted	11727
one year	11724
Punishment for aiding	11586
Punishment, where not prescribed	10725
Resisting officers	10825
Trial and judgment, how had in justice courts	11770
Trial, defendant need not be present	11931
Verdict, presence of defendant unnecessary	12018

MISFEASANCE—See Officers

MISJOINDER

Amendment	9189
-----------------	------

MISPRISION OF TREASON

Defined	10736
Punishment	10736

MISREPRESENTATION

See Fraud	
Life insurance agents, forbidden.....	6290, 6292

MISSOULA COUNTY

Boundaries and county seat.....	4335
---------------------------------	------

MISTAKE

As ground for rescission of contract	7565, 8731
As ground for revision of contract	8726
Assent given under, prevents specific performance	8721
Avoids contract	7475
Error in contract, produced by, may be disregarded	7531
Grounds for rescission of contract	7565
In	
indictment or information, procedure on	11989
pleading, amendment	9187
pleading immaterial	11874
title to affidavit	11873
wills	7039
Kinds of	7484
Of	
fact	7485
foreign laws	7487
law	7486
Resulting trust from	7887
Setting aside default in justices' courts	9647
Setting aside judgment obtained by	9187
Things taken by, must be returned	7577
return of, instead of demand..	7578
Time to commence actions, on ground of	9033

GENERAL INDEX.

MITIGATION

- Murder, burden of proof 11980
- Of punishment 11585
- hearing 12067, 12068

MIXTURE

- See Accession.....6826, 6834

MOBS

- See also Riots
- Actions for, against cities..... 9034
- Jurisdiction of justice courts.... 8842
- Liability of city for damages by 5086
- Refusal to disperse on command.. 11298

MONEY

- Action for, verdict to find amount 9362
- Borrowing, by counties—See Counties4717- 4722
- Classification for taxation..... 1999
- Counterfeiting—See Forgery and Counterfeiting11362, 11365
- County, when and where deposited 4767
- Damages for breach of obligation to pay..... 8669
- Deposit
 - in banks on offer to pay..... 7446
 - of, equal to undertaking 9831
- Deposited in court, how disposed of 10701
- Disposal by justices of the peace 9713
- Embezzlement by public officers. 11318
- Fractions rejected in computing judgments 4285
- Instruments for payment of, how pleaded 9171
- Issuance by corporations forbidden 5996
- Loan of—See Loan7720- 7724
- Lost money, duty of finder...7694- 7700
- Making profit by public officers, forbidden 11318
- Money of account
 - defined 4283
 - limitations 4284
- Negotiable instruments payable in 8408
- Obligation to pay, how extinguished 7446
- Obtaining by
 - confidence games 11411
 - false pretenses 11410
- Order for, how enforced..... 9777
- Penalty for officers' failure to pay over 11319
- Recovery illegal payments of, by county commissioners..... 4451
- State officers to deposit with treasurer 192
- Treasurer to expend, how..... 193
- Using or circulating unauthorized, punishment 11525
- Verdict in action for recovery of 9362
- Warranty on exchange..... 7635

MONOPOLY

- See Restraint of Trade.....10898-10914
- Discrimination in purchase of dairy products..... 2630

MONTANA

- For complete list of all state boards, commissions and departments—See State Boards, Commissions and Departments
- For complete list of all state institutions—See State Institutions
- For complete list of all state officers—See State Officers

MONTANA CHILDREN'S HOME SOCIETY

- See 'Orphans' Home.....1507- 1510

MONTANA COUNCIL OF DEFENSE

- Powers concerning war defense bonds—See Bonds.....5624- 5637

MONTANA GRAIN INSPECTION LABORATORY

- See Grain Inspection Laboratory902- 912

MONTANA IRRIGATION COMMISSION

- See Irrigation Commission Montana3947- 3952

MONTANA ORTHOPEDIC COMMISSION

- See Health, State Board of..2511- 2514

MONTANA REPORTS

- See Reports of Decisions of the Supreme Court.....379- 384

MONTANA SCHOOL FOR DEAF AND BLIND

- See Deaf and Blind, Montana School for.....1456- 1473

MONTANA SOLDIER SETTLEMENT ACT

- See Soldier Settlement Act..5638- 5652

MONTANA STATE INDUSTRIAL SCHOOL

- Additional buildings and improvements 12513
- when to be erected..... 12500
- Appeal from order of commitment 12505
- Biennial* report..... 12502
- Board of examiners to audit accounts 12515
- Branches of learning to be taught 12499
- Building fund..... 12514
- Buildings and improvements, regulation of..... 12513
- Charges against inmates, how investigated and tried..... 12497
- Commitment of females may be changed to other institutions, when 12548
- Commitment to, form of..... 12289
- Commutation of sentence, how and when 12507
- Departments 12498
- Designation of name..... 12489
- Discharge of inmates, when..... 12506

GENERAL INDEX.

MONTANA STATE INDUSTRIAL SCHOOL (Continued)

Duration of sentence.....	12506
Duties of local executive board	12497
Duties of president.....	12498
Entry of order of commitment...	12503
Escapes, punishment for aiding..	12510, 12511
Establishment and location.....	12488
Expenses of commitment, how de- frayed	12504
Expenses of improvements, how certified and paid.....	12515
powers of state board of exam- iners	12515
Form of commitment	12503
Form of commitment juvenile de- linquents	12289
Fugitives from school	
arrest of.....	12509
reward for arrest.....	12512
Location	12488
Matron	
appointment of.....	12495
employment and duties.....	12495
responsible to whom.....	12498
Objects and purpose.....	12490, 12494
Order of commitment.....	12503
Penalty for connivance at escapes	12510
providing tools or weapons for	12511
Physician's certificate.....	12503
Powers of board of trustees.....	12490
Powers of directors and officers...	12491
Presentation of youths to presid- ing officer.....	12494
President	
duties	12496
employment of.....	12495
report of.....	12501
Punishment for offenses commit- ted at.....	12497
Purchase of machinery and tools	12500
Purposes of.....	12494
Record of investigations.....	12497
Regulation of school by local ex- ecutive board.....	12500
Releases and paroles.....	12508
Remand to state prison, when...	12507
Report of board.....	12502
Report of president.....	12501
Review of proceedings by supreme court	12505
Reward for arrest of fugitives...	12512
Rules	12500
State industrial school fund.....	12492, 12514
Supervision and control.....	12493
Term of commitment.....	12506
Who may be committed.....	12503

MONTANA TRADE COMMISSION

See Trade Commission for Regula-
tion of Public Mills.....3914- 3946

MONTH

Defined	16, 10713
Payment of salaries by.....	442
School month defined.....	1060

MONUMENTS

As boundaries.....	10683
As evidence.....	10531
Destruction on mining claims...	11491
Duty of coterminous owners to maintain	6777
Injuries to surveyors'.....	11490
Penalty for defacing.....	11038
Removing, defacing or altering...	11484

MOOSE

Game animal.....	3681
Killing prohibited.....	3719

MORAL OBLIGATION

As consideration for contract....	7504
-----------------------------------	------

MORPHINE

See Opium and Opiates.....	3186- 3202
Unlawful sale of.....	11239

MORTGAGES

Actions to redeem	
time for commencement.....	9044
when mortgagor not entitled to redeem	9045
After-acquired title passes by....	8255
Against estates, how to be fore- closed	10180
Chattel	
acknowledgment of satisfaction, filing and recording.....	8289
affidavit of	
good faith.....	8276
renewal	
execution and filing.....	8280
filing, how construed.....	8281
attachment of mortgaged prop- erty, how made.....	8283
certified copy as evidence.....	8284
copy of mortgage and receipt, execution of.....	8276
corporations, who may execute for	8277
duration of lien.....	8279
execution	
affidavit of good faith.....	8276
by firm of general partners..	8277
how made.....	8276
filing in office of county clerk..	8278
foreclosure by action.....	8286
foreclosure by sale of property indemnity bond and notice of sale	8286
sales	
commencement and post- ponement	8287
report and filing.....	8288
growing crops, creation and ex- tent of lien.....	8290
interests subject to.....	8275
lien, duration of.....	8279
payment of debt by subsequent mortgages, effect of.....	8282
removal of mortgaged property a crime.....	8291
exceptions	8291
renewal of, procedure.....	8280

GENERAL INDEX.

MORTGAGES (Continued)

Chattel (continued)	
sale of property on foreclosure, procedure	8286- 8288
scope of act	8285
subrogation, right of	8282
Corporate property, procedure for Corporation, how executed and filed	6004 8273
Costs, attorneys' fees on foreclosure	9798
County treasurer may execute satisfaction drought relief act.	8274
Debt, how paid out of estates of deceased persons	10308
Defined	8246
Exempt from taxation	1998
False representation by husband or wife	11413
For price, priority of	8236
Foreclosure	
against estates, how regulated.	10173
of—See Foreclosure of Mortgages	9467- 9473
of right of redemption, how	8256
Generally	
assignment	
of debt transfers security	8261
record and effect	8259
creation on property adversely held	8247
defined	8246- 8249
do not revoke will	7004
foreclosure, how regulated	8256
lien	
on what	8251
when special	8248
mortgagee entitled to possession, when	8252
rights as to insurance	8068, 8069
not personal obligation of mortgagor	8253
power of	
attorney to execute	8258
sale, how conferred	8257
property adversely held may be mortgaged	8247
record of assignment not notice, when	8260
subsequently-acquired title, effect on	8255
transfer	
of interest when mortgage or pledge	8249
subject to defeasance, how proved	8250
waste not permitted	8254
Guardians may mortgage property of ward, when	10426, 10427
Holder of, on real property of deceased persons, may become purchaser	10242
How property attached	9292
Indexes by county clerk	4799
Injunction to prevent injury to property	9496
Lands subject to dower	5814
Not revocation of will	7004

MORTGAGES (Continued)

Of property of deceased persons, how made	10249-10256
Presentation claims against estate not required, when	10180
pending suits not affected	10181
Presumption as to payment	10606
Priority of mechanics' liens	8344
Procedure to mortgage property of corporations	6004
ward	10426, 10427
Railroads may execute to secure bonds	6526
conditional sales of rolling-stock	6533- 6539
priority of judgment lien	6527
rolling-stock of	6533- 6539
Real estate mortgages	
affidavit of renewal	8267
certificate of payment, entry of	8269
corporate, how governed	8273
created, how	8264
defeasance, record necessary to affect absolute grant	8265
discharge or release, how made	8271
extension, how effected	8267
foreign executors may satisfy, how	8271
form of	8263
interest subject to	8262
mortgages by corporations, affidavits accompanying	8273
execution and record of	8273
period of lien	8267
recorded, how	8266
release, how made	8271
renewed or extended, how	8264, 8267
satisfaction	
certain papers to accompany, when	8271
how entered	8268, 8269
how recorded	8270
mortgages to county, how entered	8274
penalty for failure to execute	8271
repealing clause	8272
satisfaction by	
assignee	8271
attorney in fact	8271
duty of mortgagee to enter	8271
foreign administrators	8271
heirs of mortgagee	8271
penalty	8271
personal representatives	8271
repealing clause, pending cases excepted	8272
what may be mortgaged	8262
writing necessary to create or extend	8264
Real property	
not conveyance	9495
place of trial of foreclosure	9093
procedure, of estate	10249
Recovery of property under	9495
Release on filing city plats	4986
Satisfaction of, when property of deceased persons sold	10241
Selling or removing mortgaged property to defraud	11416

GENERAL INDEX.

MORTGAGES (Continued)

- To secure farm loans—See State Lands1931- 1942
- When not affected by lien for wages 8358

MOTHER

- See Parent and Child.....5830- 5876

MOTHERS' PENSION ACT

- See Protection of Dependent and Neglected Children...10480- 10486

MOTIONS AND ORDERS

- Costs of motion..... 9797
- Defined 9772
- For new trial...9395-9400, 12046-12050
- In arrest of judgment..... 12051
- In special proceedings, definition. 9835
- Motion
 - before what judge to be made.. 9773
 - to correct or modify award by arbitrators 9979
 - to quash indictment.....11891-11895
 - to tax costs..... 9803
- Notice of motion
 - service, how made..... 9774
 - time 9774
- Order for payment of money, how enforced 9777
- Orders made out of court, vacation or modification..... 9776
- Transfer by court..... 9775
- What deemed excepted to..12038-12043
- What to be presented by bill of exceptions for review..... 12045
- When hearing of motion may be transferred 9775
- Where to be made..... 9773

MOTOR BOATS

- Killing game from, prohibited... 3694

MOTOR VEHICLES

- Accessories required 1753
- Chauffeur
 - badge 1758
 - conviction of violation of law.. 1761
 - license 1761
- Dealer's license..... 1759
- Duty to stop on approaching railroad 3842
- Exemption from act when owned by United States..... 1760
- Killing game from, prohibited... 3694, 3722
- Number plates, style of..... 1757
- Penalty for violation of road law 1754
- Possession when parts have been removed prohibited..... 11479
- penalty for selling or disposing of 11480
- Punishment for use without owner's consent 11478
- Registration
 - blanks to be provided..... 1756
 - certificates, transfer on sale... 1760
 - fee for filing statement..... 1760
 - duty of peace officer..... 1762

MOTOR VEHICLES (Continued)

- Registration (continued)
 - fees
 - amount of
 - after July 31st..... 1760
 - branch establishments 1760
 - deduction from..... 1760
 - disposal of..... 1760
 - for 1760
 - penalty for violation of act.... 1762
 - records
 - open to inspection..... 1758
 - to show what..... 1755
 - registration and reregistration, procedure 1759
 - reporting convictions..... 1762
 - secretary of state registrar of what vehicles excepted..... 1759
 - Regulation by cities—See Cities and Towns.....5041, 5042
 - Speed and traffic regulations—See Highways1742- 1754

MOTORMEN

- See Streetcar Employees.....3061- 3067

MOUNTAIN GOAT

- Closed season for..... 3699
- Game animal..... 3681

MOUNTAIN LIONS

- Bounties for killing—See Bounties3407- 3417

MOUNTAIN SHEEP

- Closed season for..... 3699
- Game animal..... 3681

MOVING PICTURES

- Exhibition of crime forbidden.. 11567
- License for, in cities..... 2439

MULES

- See also Livestock
- Taking up without owner's consent 11551

MUNICIPAL CORPORATIONS

- See Cities and Towns—See also Counties—See also Schools, Public

MUNICIPAL OFFICERS

- Attachment of money belonging to 9294

MURDER—See Homicide, subtitle murder

MUSEUMS

- Injury to exhibits..... 11498

MUSIC TEACHERS

- Instruments exempted..... 9428

MUSKRAT

- Open season for..... 3704

MUSSELSHELL COUNTY

- Boundaries and county seat..... 4336

GENERAL INDEX.

MUTUAL ACCOUNTS

Cause of action, when deemed to accrue 9042

MUTUAL HAIL INSURANCE

See Insurance Corporations..6170- 6184

MUTUAL INSURANCE COMPANIES

See Insurance Corporations, subtitle stock and mutual insurance other than life....6128- 6169

MUTUAL INSURANCE COMPANIES, RURAL

See Insurance Corporations..6185- 6205

MUTUAL WILL

Defined 6983

NAILS

Depositing in highway forbidden 1740

NAMES

Banking corporation, change of.. 6031

Change of—See Change of Names9963- 9971

Change of, conveyance must recite former name 6864

Change of, counties—See Counties4427- 4440

Change of partnership, notice.... 8013

Co-operative associations, restrictions on use.....6394- 6396

Corporations must have..... 5999

Defendant to declare in justice court12309, 12310

Fictitious designation of defendant in justice courts, when... 9723

Fictitious names, used in pleadings, when allowed..... 9190

Fictitious, register of..... 8024

when used by partners...8019- 8023

Of adopted child.....5863

corporation, must be stated in articles 5905

change of, how..... 5918

Proceeding when defendant not indicted by true..... 11889

Proceedings when indicted by fictitious 11846

Use of initials allowed in pleadings 9190

NARCOTICS

See also Opium and Opiates

Administration, when assault.... 10977

Opium, regulation of sale of—See Opium3189- 3202

Unlawful sale of..... 11239

NATIONAL BANKS

See Banks and Banking

Change from state to.....6088- 6092

Taxation of—See Taxation...2063- 2066

NATIONAL COMMITTEEMAN

How elected..... 663

Selection on passage of act..... 663

Term of office..... 663

NATIONAL FLAG

Display at capitol..... 317

appropriation for..... 319

duties of secretary of state concerning 318

NATIONAL FORESTS

See also Forest Reserves

Selection of lieu school lands in1907, 1908

NATIONAL GUARD

See Militia.....1330- 1383

Exempt from jury service..... 8893

NATIONAL PARKS

Glacier, jurisdiction over..... 22

Yellowstone, jurisdiction over.... 23

NATIONAL RESERVE ASSOCIATION

Banks may join..... 6042

NATURAL GAS

See Oil and Gas.....3547- 3554

Wasteful use of, prohibited..3550- 3552

NATURALIZATION

Fees for..... 4894

Jurisdiction of district courts.... 8829

Registration of citizen, how..... 575

NAVIGABLE LAKES

Permitting logs to accumulate along shore forbidden..11574-11576

NAVIGABLE RIVERS

Obstructing 11489

NAVIGABLE WATERS

See Boundaries..... 10683

Are public ways..... 1604

Lands below, property of state.. 6674

Licenses to build docks and wharves 1605

Seaman's lien..... 8390

Shipmaster's lien..... 8389

NAVIGATION

Boats, license of..... 3862

Captains and pilots, license of... 3862

Fees for inspection 3873

licenses3874, 3875

Fire protection in boats..... 3864

Force-pumps to be carried..... 3867

Inspection fees..... 3873

Inspection of vessels, when and how 3860

Inspector of steam vessels..... 3859

appointment 3859

compelling compliance 3861

compensation 3875

determination of capacity of vessels 3860

inspection by..... 3860

licenses issued by..... 3862

reports of..... 3862

Licensed officers, procedure on loss of service..... 3872

Licenses, revocation of..... 3863

GENERAL INDEX.

NAVIGATION (Continued)

Life	
boats	3863
preservers	3869
saving apparatus, examination of	3860
Lights to be carried	3866
Name to be printed on boat	3871
Number of passengers to be carried	3863
Penalty for	
unauthorized operation of boats	3877
violation of act	3878
Practice drills	3868
Railroad commission, power and duties over	3876
Rules of navigation	3865
Steam boilers, inspection of	3870
Steamboats, fire protection	3864
Unlawful to operate boats, when	3877

NECESSARIES

Child to furnish for indigent parents	5853-5855
Husband and wife, liability for	5790
Liability of	
husband for	5800
minor for	5681
parent for	5844
persons of unsound mind	5681
Penalty for failure to provide for wife and child	11017-11022

NEGATIVE ALLEGATIONS

Proof	10530
-----------------	-------

NEGLECT

Definition	10713
Of children	11022

NEGLECTED CHILDREN

Protection of	10465-10486
-------------------------	-------------

NEGLIGENCE

Agreements exemption carriers void, when	7853
By owner of defective quartz mine	3421
Causing death	
representative may sue for	9076
who liable	9075
Contracts releasing employer from liability to employee unlawful	7555
Defense, when excluded	2836
Employee, liability for	7783
Evidence of, killing stock by railroad companies	6541
Executor, suspension for	10124
Gross, prevents relief from forfeiture by compensation	8658
Handling explosives	2812
Issues of fact in actions for, how tried	9327
Liability	
imposed by law	7579
injuries resulting from	7579
mines, mills and smelters, vice-principals, fellow-servants	7761-7765
of owner of vehicle for negligence of driver	1748

NEGLIGENCE (Continued)

Of	
agent, liability of principal	7965
depository	7653
extent of	7655
fellow-servant	
railroads liable for	7766
survival of action	7767
innkeeper	7680
Relief from judgment on ground of in district court	9187
in justice court	9647

NEGOTIABLE INSTRUMENTS

See also next title	
Forgery	11360
Larceny	11377-11379
Passing or uttering	11361
Protest by notaries	388
Unlawful issuing of	11525

NEGOTIABLE INSTRUMENTS

LAW	
Acceptance—See subtitle bills of exchange	
Acceptor, liability of	8469
Accommodation party, liability of	8436
Act	
falling on holiday, when performed	8405
how designated	8401
subordinate to intention of parties	8597
Agents	
duty to collect	7803
may give notice of dishonor	8501
Alteration	
effect of	8531
what constitutes material	8532
Ambiguity, construction in case of	8424
Antedating and postdating, effect of	8419
Assignment of	
effect on defenses	9068
mortgage, record not notice	8260
Banks, present to, for payment	8494
Bearer, when payable to	8416
Bills in a set—See subtitle bills of exchange	8585-8590
Bills of exchange	
acceptance	
See also subtitle presentment for acceptance	8550-8558
by separate instrument	8541
general	8547
holder, how entitled to	8540
how made	8539
kinds of	8546
liability of drawee retaining or destroying	8544
must be on face	8540
of incomplete bill	8545
promise to accept when equal to	8542
qualified, when	8548
right of parties as to	8549
time allowed drawee	8543

GENERAL INDEX.

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Bills of exchange (continued)	
acceptance for honor	
agreements of.....	8572
delay, when excused.....	8576
for whom made.....	8570
how made.....	8569
liability of.....	8571
maturity of sight bills.....	8573
protest of bill.....	8574
when made.....	8568
acceptor for honor	
dishonor of bill by.....	8577
presentment for payment to..	8575
addressed to drawees, how.....	8535
bills in sets	
acceptance of.....	8588
effect of discharging, when..	8590
constitute what.....	8585
liability of holder on endorse-	
ment to different persons..	8587
payment by acceptor, liability	8589
rights of holders on nego-	
tiation.....	8586
defined.....	8533
dishonored by nonacceptance,	
when.....	8556
drawee may insert referee in	
case of need.....	8538
duty of holder when not ac-	
cepted.....	8557
failure to present, effect of....	8551
foreign bills defined.....	8536
general acceptance, what con-	
stitutes.....	8547
inland bills defined.....	8536
kinds of acceptance.....	8546
nonassignment of funds, when..	8534
payer for honor, rights of.....	8584
payment for honor	
declaration of.....	8580
effect on subsequent parties.	8582
effect when holder refuses to	
receive.....	8583
how made.....	8579
performance of parties.....	8581
who may make.....	8578
presentment	
how made.....	8552
on what days made.....	8553
when time is insufficient....	8554
presentment for acceptance ex-	
cused, when.....	8555
when made.....	8550
presentment for honor, delay	
excused, when.....	8576
protest	
before maturity when ac-	
ceptor insolvent.....	8565
by whom made.....	8561
dispensed with, when.....	8566
for nonacceptance and non-	
payment.....	8564
how made.....	8560
of bill, dishonored by ac-	
ceptor for honor.....	8577
when bill is lost, how made..	8567

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Bills of exchange (continued)	
protest (continued)	
when necessary.....	8559
when to be made.....	8562
where made.....	8563
qualified acceptance	
rights of parties.....	8549
what constitutes.....	8548
referee in case of need.....	8538
rights of holder when not ac-	
cepted.....	8558
to whom addressed.....	8535
treated as promissory note,	
when.....	8537
when treated as promissory note	8537
Bills of lading negotiable.....	7829
Blank indorsement, how changed	
to special.....	8442
Blanks may be filled in, when....	8421
Bona fide holder, lien on instru-	
ment.....	8434
what constitutes.....	8433
Cashier, effect of indorsement to..	8449
Certainty as to sum, what consti-	
tutes.....	8409
Certification of check, effect of..	8594
Check	
defined.....	8592
effect when holder procures, to	
be certified.....	8595
must be presented, when.....	8593
operates as assignment, when..	8596
Conditional endorsement, effect of	8446
Consideration, effect of want of..	8435
illegality affects title.....	8462
presumed.....	8431
what constitutes.....	8432
Construction where instrument is	
ambiguous.....	8424
Continuation of negotiable char-	
acter.....	8454
Date, antedated.....	8419
antedating and postdating....	8419
may be inserted, when.....	8420
omission of.....	8413
presumption as to.....	8418
Defective title, what constitutes	8462
Definition and meaning of terms.	8402
Delivery, when effectual, when pre-	
sumed.....	8423
Demand, instrument when pay-	
able on.....	8414
Determinable future time, what	
constitutes.....	8411
Discharge of persons secondarily	
liable.....	8527
right of party discharging....	8528
Discharged, how.....	8526
Dishonor	
agent may give notice, when..	
.....	8498, 8501
by nonpayment, when.....	8490
delay in giving notice, how ex-	
cused.....	8520
deposit of notice in postoffice,	
what constitutes.....	8513

GENERAL INDEX.

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Dishonor (continued)

effect of notice on behalf of holder	8499
effect when notice given by party entitled thereto.....	8500
form of notice.....	8503
liability of persons secondarily liable	8491

notice

by whom given.....	8497
delay in giving, how excused	8520
dispensed with, when.....	8519
form of.....	8503
must be sent, where.....	8515
need not be given drawer, when	8521
need not be given endorser, when	8522
of dishonor when acceptance refused	8523
of, imports what.....	10526
of nonpayment when acceptance refused	8523
time for giving.....	8509
when dispensed with.....	8519
when party is dead.....	8505
where parties reside in different places.....	8511
where parties reside in same place	8510

notice to

bankrupt	8508
partners	8506
persons jointly liable.....	8507
subsequent party, time of...	8514
whom given.....	8496-8504

omission to give notice of non-acceptance, effect of.....	8524
protest, when required.....	8525
sender deemed to have given notice, when	8512
time for giving	8509
to whom notice must be given..	8496
waiver of notice, how made....	8516
who affected by.....	8517
waiver of protest, construction of	8518
when sufficient	8502
where notice must be sent.....	8515
where parties reside in same place	8510

Drawer, liability of.....	8468
---------------------------	------

Duress affects title.....	8462
---------------------------	------

Effect of certain omissions.....	8413
----------------------------------	------

Effect of drawing or indorsement to cashier or other officer....	8449
--	------

Foreign bills defined.....	8536
----------------------------	------

Forged signature, effect of.....	8430
----------------------------------	------

Form of negotiable instruments..	8408
----------------------------------	------

Frauds affects title.....	8462
---------------------------	------

General endorser, liability of....	8473
------------------------------------	------

Grace not allowed.....	8492
------------------------	------

Holder for value, lien constitutes, when	8434
--	------

what constitutes.....	8433
-----------------------	------

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Holder in due course, defined....	8459
rights of.....	8464
who deemed, burden of proof..	8466
who not deemed.....	8460
Holder right to sue.....	8458
payment to, discharges.....	8458
renunciation of rights.....	8529
Incomplete instruments not delivered, valid, when.....	8422

Indorsement

by infant or corporation, effect of	8429
cashier endorsement to, effect of	8449
conditional	8446
effect of striking out.....	8455
how made.....	8438
in blank, how changed to special	8442
in blank, how made.....	8441
in representative capacity....	8451
kinds of.....	8440
must be of entire instrument...	8439
of instrument payable to bearer	8447
presumption as to place.....	8453
presumption as to time.....	8452
qualified	8445
restrictive	8443
restrictive, effect of.....	8444
special	8441
striking out indorsement.....	8455
transfer without.....	8456
warranty on.....	8472
when payable to two or more persons	8448
where name is misspelled.....	8450

Indorser, liability of agent or broker	8476
order of liability.....	8475
who deemed.....	8470
Inland bills defined.....	8536

Instruments

due on Sunday, when presented	8492
payable at bank, effect of....	8494
payable at bank, time for presentation	8492

Instruments dishonored by non-payment, when.....	8490
liability of persons secondarily liable	8491

Law merchant governs, when....	8407
--------------------------------	------

Liability of

acceptor	8469
agent or broker.....	8476
banks on collection.....	6108, 6109
drawer	8468
general indorser	8473
indorser on negotiation by delivery	8474
irregular indorser.....	8471
maker	8467
person signing as agent.....	8427
person signing trade or assumed name	8425
Maker liability of.....	8467

GENERAL INDEX.

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Material alteration, what constitutes	8532
Negotiable character continued, when	8454
not affected by what.....	8412, 8413
Negotiable instruments, form of..	8408
provisions not affecting negotiability	8412, 8413
sum certain, what constitutes..	8409
Negotiation, what constitutes....	8437
Non-negotiable instrument, how transferable	7415
Notice of defects, what constitutes.....	8463
dishonor—See subtitle dishonor	8496-
infringement before payment, effect on transferee.....	8461
Notice sufficient, when.....	8502
Order of liability of indorsers...	8475
Original defenses, when available	8465
Payable on demand, when.....	8414
Payable to bearer when.....	8416
Payable to order, when.....	8415
Payment in due course, what constitutes	8495
Payment of principal or interest, effect as new promise.....	9062
Payment to holder, effect of.....	8458
Persons primarily and secondarily liable, who are.....	8403
Persons secondarily liable discharged, how.....	8527
Place of presentment.....	8480
Plaintiff may sue different parties in one action.....	9084
Presentment delay excused, when	8488
Presentment dispensed with, when	8489
Presentment for payment banks, presentment, when made	8482
delay in making, when excused	8488
may be dispensed with, when..	8489
must be exhibited.....	8481
to joint debtors.....	8485
to partners.....	8484
what constitutes sufficient....	8479
when may be dispensed with..	8489
when necessary.....	8477
when not necessary to charge drawer	8486
when not necessary to charge indorser	8487
when principal debtor dead....	8483
Presentment, instruments to be exhibited	8481
not required to charge drawer, when	8486
not required to charge indorser, when	8487
to joint debtors, how made....	8485
to partners, where made.....	8484
what constitutes sufficient....	8479
when instrument is not payable upon demand.....	8478
when payable at bank.....	8482

NEGOTIABLE INSTRUMENTS

LAW (Continued)

Presentment, instruments to be exhibited (continued)	
when payable at future time..	8482
when principal debtor is dead..	8483
Presumption as to time of indorsement and consideration	10606
Prior party may negotiate, when	8457
Procurator, signature by, as notice	8428
Promise unconditional, when....	8410
Protests—See subtitle bills of exchange	8559-
Protests, when not required.....	8525
Provisions not affecting negotiability	8412
Qualified indorsement, effect of..	8445
Reasonable and unreasonable time, what constitutes.....	8404
Referee in case of need defined..	8538
Renunciation by holder, effect of	8529
Requirements of negotiable instruments	8408
Restrictive indorsement defined..	8443
effect of rights of endorsee..	8444
Right of holder to sue.....	8458
Right of party who discharges..	8528
Scope of act.....	8406
Signature by agent, authority, how shown.....	8426
liability of agent.....	8427
Signature by procurator, effect of	8428
forgery, effect of.....	8430
Special indorsement, how made..	8441
Subject to original defenses, when	8465
Sum certain, what constitutes...	8409
Terms defined.....	8402
when sufficient.....	8417
Time how computed.....	8405
of maturity, how computed	8492, 8493
of payment, how computed....	8493
Title notice of defects in.....	8463
of act.....	8401
of instrument, defective, when..	8462
of person negotiating, defective, when.....	8462
Trade names, signature by.....	8425
Transfer without indorsement, effect of.....	8456
Unconditional promise defined....	8410
Unintentional cancellation, burden of proof.....	8530
Warranty on negotiation by delivery	8472
Who may be sued on overdue paper	9092

NEGROES

Marriage with whites void.....	5700
--------------------------------	------

NESTS AND EGGS

Destruction prohibited.....	3724
-----------------------------	------

NET PROCEEDS

Mines, license on—See Taxation	2089- 2096
--------------------------------------	------------

GENERAL INDEX.

NETS

Regulation of use for fishing. 3714- 3716

NEW COUNTIES

Creation by petition and election
—See Counties.....4390- 4407
Effect on docket of justice courts 9708
Location of county seats—See
Counties4389- 4408
Number of representatives from.. 46
Senatorial districts in..... 43
Transfer of records on creation
of 4421

NEW MATTER

Answer may contain..... 9137
Deemed denied, in justices' courts 9646
Demurrer
in district courts..... 9155
in justices' courts..... 9644
When deemed controverted..... 9178

NEW PARTIES

Bringing in, procedure..... 9090

NEW PROMISE

Effect on limitations..... 9062

NEW TRIALS IN CIVIL CASES

Appeals from orders granting or
refusing, time for..... 9732
Bill of exceptions
amendments 9390
application to supreme court to
prove, when..... 9392
how prepared and settled..... 9390
material rulings incorporated.. 9394
narrative form..... 9390
need not be prepared pending
motion new trial..... 9390
proceedings when judge ceases
to hold office..... 9393
service on adverse party..... 9390
settlement by judge..... 9390
settlement by judge at time of
decision, how..... 9389
settlement by referee..... 9390
signature by judge..... 9390
to decisions after judgment,
how 9391
Decision on motion, how entered. 9400
Defined 9395
Equity cases, when granted in... 9396
Grounds for granting..... 9397
Hearing on motion
court may continue, when..... 9400
decision on, how entered..... 9400
deemed denied, when..... 9400
reference to what papers had.. 9400
time for..... 9400
when had..... 9400
In particular actions
certiorari 9867
mandamus 9855
prohibition 9864, 9867
In probate proceedings..... 10366
for distribution of estate..... 10325
Motion for, on what made..... 9398

NEW TRIALS IN CIVIL CASES

(Continued)

Notice of intention
contents and service..... 9399
hearing of motion, when had.. 9400
how made..... 9399
time for filing..... 9399
On foreclosure of mechanic's lien 8346
On what papers made..... 9398
Papers used on hearing of motion 9400
Stay of proceedings, when..... 9401
When granted..... 9397
When not granted for error in in-
structions 9349

NEW TRIALS IN CRIMINAL CASES

Affidavit, when used on..... 12050
After appeal, where to be had... 12128
Application
how made..... 12049
when to be filed..... 12049
Definition of term..... 12046
Disagreement of jury..... 12015
Effect of granting on subsequent
trial 12047
Error in instructions, when not
ground 11969
Former verdict not to be used... 12047
Granting, effect of..... 12047
Grounds for..... 12048
Hearing on motion..... 12050
Motion
deemed excepted to..... 12038-12043
for, how made..... 12050
on affidavits, when..... 12050
on bill of exceptions, when... 12050
to be heard, when..... 12050
Newly discovered evidence, affi-
davits 12048
Stay of proceedings, pending... 12050
Upon what made..... 12050
When to be granted..... 12048
Where to be had..... 12128

NEW YEAR'S DAY

Holiday 10
School not to be held on..... 1062

NEWLY DISCOVERED EVIDENCE

New trial for..... 12048

NEWSPAPERS

See also Publications
Advertisement
lotteries, misdemeanor....11152, 11153
of divorce, prohibited..... 11564
County printing, regulation of... 4482
Editors' and publishers' liability
in libel..... 10994
Extent of privilege of publication 10996
False report of proceedings of
court 10944
Giving false information for pub-
lication 10999
Obscene advertisements, evidence 11148
Offer to withhold publication of
libel for pay..... 10998
Paid political advertisements regu-
lated 10798

GENERAL INDEX.

NEWSPAPERS (Continued)

Punishment for obscene advertisements	11146
Reading by jurors, when not disqualification	11962
Threats to publish libel	10998
True report of public proceedings, privileged	10995
What advertisements prohibited.	11144

NIGHT-TIME

Defined	4282
Defined in	
arson statute	11340
burglary statute	11350
Service of search-warrant	12404
When arrest to be made in	11753, 11757

NITROGLYCERIN

See Explosives	2786- 2815
----------------------	------------

NOLLE PROSEQUI

Abolished	12228
-----------------	-------

NOMINATIONS

Campaign expenditure for, limit of	10773
Of	
candidates by direct vote—See Elections	631- 670
candidates for special elections by primary meetings — See Elections	612- 630
public officers—See Public Officers	424- 429

NONBEVERAGE ALCOHOL

See Intoxicating Liquors	11087-11093
--------------------------------	-------------

NONJUDICIAL DAYS

Appointments for holding court, effect	8851
What days are	8850
What may be done by courts on	8829, 8850

NON-NEGOTIABLE INSTRUMENTS

Transfer of	7415
-------------------	------

NONRESIDENTS

Administrator	10072
Appointment attorneys for, in probate proceedings	10370
Corporations—See Foreign Corporations	
Distribution of estate, when decedent was	10329
Guardians, appointment of—See Guardianship	10444-10454
Limitations, statute of	9063
May appoint person to act as administrator, when	10082
Partition affecting—See Partition	
Pleadings, how verified	9163
Proof of service on default	9322
Security for costs of action	9807
Service of papers on	9783

NONSUIT

In forcible entry and detainer	9892
Judgment of, when entered	9317

NONSUPPORT

Of wife and children—See Wife and Children	11017-11022
--	-------------

NORMAL SCHOOL, STATE

Control and management	928
Establishment	926
Name	926
Objects	927
Payment for securities purchased with funds of	930
Public lands, acceptance of	929
Securities, how paid for	930

NORMAL TRAINING COURSES

Establishment in high school—See Schools, Public	1302- 1310c
--	-------------

NORTHERN MONTANA AGRICULTURAL AND MANUAL TRAINING SCHOOL

Appropriation for	924, 925
Control and supervision	918
Establishment	
and objects	917
of agricultural experiment station	919
Executive board	921
Gifts, acceptance of	920
President and faculty, appointment of	922
Secretary and treasurer, bond	923

NOT GUILTY

Evidence admissible under plea	11911
Failure of corporation to appear, plea to be entered	12236
Form of plea	11908
Form of verdict	12020
Issue in prosecution for bastardy	12272
Plea of	11907
Plea puts in issue, what	11910
Refusal of defendant to plead	11915

NOTARIES PUBLIC

Affidavits taken before	10639, 10640
Appointment of	385
As deputy registrars	557
Authentication by, form of	388
Authority of, when officers or stockholders of corporations	390
Certificate of secretary of state	396
fees for filing	397
Commission, how issued	394
Deposition, may take	10651
Fees of	4914
Issuance of commission	394
Jurisdiction	385, 389
Limitations	400
May take acknowledgments	6906
Oath of office, filing of	394
Oaths, may administer	10693
Official bonds	
amount and approval	394
liability on	395
Powers and duties	388
Protest by, as evidence of facts	391
Protest of negotiable instruments	8561
Qualifications and residence	386
Records, certified copies of	393

GENERAL INDEX.

NOTARIES PUBLIC (Continued)

Removal from state, effect of.....	386
Revocation of commission.....	398
Seals	388
Term	387
Transfer of records on death or resignation	392
Validation of early notarial acts	399- 401

NOTES

See also Negotiable Instruments Law	
Stock subscription, regulation of	5968, 5969
Title reservation notes to be filed	7594
duty of recorder.....	7595
release of obligation.....	7596
sale on default of vendee.....	7597

NOTICE

See also specific subject in ques- tion	
Actual, defined.....	8780
After appearance, defendant en- titled to.....	9782
Appeal to district court.....	9754
Appeal to supreme court.....	9733
Application for	
alimony	5781
certiorari	9838
discharge from arrest.....	9876
dissolution of corporations.....	9925
mandamus	9851
prohibition	9851, 9864
quo warranto.....	9584
Appointment of receiver.....	9302
Attorneys, how served.....	9779
By	
citation, in probate proceedings	10362
executors, etc., to borrow money	10196
justice, on transfer of cause....	9623
mail, service, when and how....	9774, 9780, 9781
record, in probate proceedings..	10357
telegraph or telephone.....	9785
Change of attorneys.....	8975, 8976
Claims against estates.....	10170-10172
Clerk may issue, in probate pro- ceedings, when.....	10376
Constructive	
defined	8780
who deemed to have.....	8781
Exclusion of deposition, when no- tice not given.....	10652
Execution sales.....	9432, 9433
Extension of time, limitation.....	9823
How published when not expressly designated	9833
In contempt proceedings, service.	9784
In court matters	
how served.....	9778
must be in writing.....	9778
In probate proceedings—See Pro- bate Proceedings	
Injunction proceedings, when re- quired	9245
Inquiry into incompetency of per- sons	10412

NOTICE (Continued)

Intention to move for new trial, service and contents.....	9399
Lien for wages.....	8354, 8355
Loss on insurance policy—See In- surance	8142- 8146
Motion	
to release attachment.....	9282
to tax costs.....	9803
when and how notice to be given	9774
Nonresidents, service on.....	9783
Not necessary before action for possession of real property...	6748
Of	
appeal, service.....	12110, 12111
application for bail, when....	12139
appropriation of water.....	7100
arrest, in justices' courts.....	9655
commission to take deposition.	12203
motion for new trial....	9399, 12049
sale of estate, when unnecessary	10233
settlement of bill of exceptions	9390, 12044
termination of tenancy.....	6744
effect of.....	6745
re-entry, when and how made	6746
trial, in justices' courts.....	9637
On sale of mortgaged property of corporation	6004
Parties, how served.....	9779
Partition of estates.....	10342
Pendency of actions, when and how filed.....	9109
Petition	
for payment of legacies.....	10319
for probate of will.....	10025, 10026
to become sole trader.....	9983
to convey lands of decedents..	10269
Postponement of sale of real prop- erty of deceased person.....	10231
Prosecution for bastardy.....	12268
Reduction of bail.....	12151
Sale of	
attached property.....	9272
personal property of estates...	10204
property on execution, how given	9432
by guardian.....	10433, 10434
real property of estates..	10220, 10222
Service	
by mail, how and when....	9780, 9781
of, generally.....	9778- 9785
on defendant, when unnecessary	9782
on nonresident.....	9783
Settlement of accounts of execu- tors and administrators....	10299
Taking depositions	
in state.....	10651
of witness	12190
Tenant must deliver to landlord, when	7749
To	
adverse party to produce writ- ing in evidence.....	10586
agent, when notice to principal	7969

GENERAL INDEX.

NOTICE (Continued)

To (continued)	
creditors of estates.....	10149, 10170
executors, etc., of suspension..	10125
on absconding.....	10127
heirs in probate proceedings, by mail	10026
quit premises, when.....	7746
tenants, service of.....	9890
to perform covenants of lease	9889
to quit.....	9889
Vacation or modification of order made out of court.....	9776
When	
and how served.....	9778, 9779
want of, no defense in forcible entry and detainer.....	9892

NOTICE TO CREDITORS

In assignments for benefit of creditors	8632
Of estates.....	10149, 10170

NOTICES

Bond sales, to state board land commissioners	1913
violation of act misdemeanor...	1915
waiver	1914
Defined in act governing sheriff..	4773
Delinquent tax sales for 1921—See Taxation.....	2198- 2200
Destruction of.....	11491
Primary election, form of.....	633
Service of—See Sheriff.....	4773- 4794

NOVATION

A contract.....	7462
Defined	7460
Modes of.....	7462
Rescission of.....	7463

NOXIOUS WEEDS

See Weeds.....	4506- 4513
----------------	------------

NUDITY—See Obscene Literature

NUGGETS

Counterfeiting	11362
----------------------	-------

NUISANCES

See also Public Nuisances..	11231-11235
Abatement	
buildings where unlawful acts carried on.....	11124
by	
indictment or information...	8650
local boards of health.....	2469
person injured, how effected	8655
not to preclude action.....	8647
remedies for.....	8649
when maintained in violation prohibition law—See Intoxicating Liquors,..	11066, 11123-11133
Action for.....	9474
Defective buildings constitute, when	2753
Defined	8642, 9474
Jurisdiction	8829
Lapse of time does not legalize...	8648

NUISANCES (Continued)

Maintaining	
gambling apparatus.....	11165
in violation prohibition laws—See Intoxicating Liquors....	11066-11069
Notice, when required.....	8656
Private	
defined	8644
remedies for.....	8654
Public	
by whom abated.....	8652
defined	8643
how abated.....	8653
Regulation by cities and towns...	5039
Remedies for public.....	8651
Successive owners, duty to abate	8646
Unsanitary public buildings....	2454
What is not deemed.....	8645

NUMERALS

Use permissible.....	8881
----------------------	------

NUNCUPATIVE WILLS

How executed.....	6991
Probate of.....	6994
Proof of.....	6993
Requests for.....	6992
When and how admitted to probate	10053-10055

NURSERIES

See Agriculture, Labor and Industry, Department of....	3608- 3633
--	------------

NURSES

Appeals to	
district court.....	3212
state association graduate nurses	3212
Board of examiners for	
compensation	3206
creation and term.....	3204
examination	
of applicants.....	3209
subjects of.....	3207
inspector of training schools...	3208
organization and officers.....	3206
qualification of applicants....	3210
secretary, salary of.....	3206
vacancies, how filled.....	3205
County nurses, employment of...	2506
Examination of applicants for registry	3209
Governor to issue licenses.....	3203
Interpretation of act.....	3215
Licenses, issuance by governor, when	3203
Practice without certificate forbidden	3214
Registration of	
graduates	3211
schools	3208
Regulation, qualifications and credentials of applicants.....	3213
Revocation of certificate, causes..	3216
School nurses, employment of...	2505

GENERAL INDEX.

NURSES (Continued)

Training schools for	
fees for registration.....	3208
qualifications to enter.....	3210
registration of graduates.....	3211
regulation of.....	3208

NURSES, BOARD OF EXAMINERS OF

See Nurses, subtitle board of examiners for.....	3203- 3216
--	------------

OATHS

See also Public Officers	
Before whom taken.....	433
By whom administered.....	4738
City and town officers to take....	5027
Constitutional, form of.....	430
Court may administer.....	8844
Defined	10713
in law governing perjury.....	10879
incompetency of witnesses no defense	10884
irregularity in administering no defense.....	10883
of office.....	10880
Deputies	435
Foreman of grand jury may administer	11822
Includes what.....	16
Judges and clerks of election. .596,	597
Judicial officers may administer..	8873
Members of legislative assembly	
entry	57, 59
when taken.....	431
Of	
appraisers, probate proceedings	10131
arbitrators	9976
attorneys	8939
bailiff	
on final retirement of jury..	12005
when in charge of jury.....	11998
commissioners	
in dower proceedings.....	10165
in eminent domain.....	9944
corporation acting as trustee, guardian, etc.....	9828
executors and administrators..	10087
to inventory.....	10135
guardians, to account.....	10422
jurors	
in justice and police courts..	12318
on retirement.....	12321
on inquest.....	12382
jury	9348
justice of the peace.....	8839
official stenographers.....	8928
receivers	9305
in proceedings supplementary	9464
referees	9377
special administrators.....	10110
witnesses	10694-10697
Penalty for false.....	4906
Perjury defined.....	10878
Person may declare or affirm....	10697
Public administrators may administer	10006
School	
officers to take.....	1327
trustees	997

OATHS (Continued)

Time for filing.....	432
To grand juries.....	11817
What	
county officers may administer	4738
officers of legislature may administer	65
public officers may administer..	463
Where filed.....	434
Who authorized to administer...	10693

OATS

Pounds in bushel.....	4226
-----------------------	------

OBJECT

Of contracts—See Contracts.7498-	7502
----------------------------------	------

OBJECTIONS

Action barred, how taken.....	9065
Appearing on face of information, etc., demurrer	11906
Statement of, how made.....	9388
To	
accounts of executors, etc.....	10292
accusation in disbarment proceedings	8968
application for change of name. complaint	9966
when may be made by answer	9135
when waived.....	9135
confirmation of order of sale of estates	10226
dissolution of corporation.....	9926
executors	10058
form of interrogatory in depositions	10652
information or indictment, essentials	11892
offer of performance, waiver..	7447
partial distribution of estates.	10320
petition to become sole trader.	9985
referees	9381, 9382
release of attachment.....	9283
tender	10682

OBJECTS

When admissible as evidence....	10599
---------------------------------	-------

OBLIGATIONS

See also Contracts.....	7467- 7580
Abstinence from injury.....	7573
Accord, defined	7456
effect of.....	7457
of liquidated debt.....	7459
Arises, how.....	7395
Burden, how transferable.....	7413
Classes of.....	7397
Conditional, defined.....	7400
kinds of.....	7401
Conditions	
concurrent, defined.....	7403
involving forfeiture, construction	7408
precedent defined.....	7402
subsequent defined.....	7404
Contribution between joint parties, when	7399
Covenants running with land....	7416
apportionment of covenants....	7423
what run when assigns are named	7420

GENERAL INDEX.

OBLIGATIONS (Continued)

Covenants running with land (continued)	
what run with land.....	7417- 7419
who are bound by.....	7421
who are not bound by.....	7422
Creditors, directions as to performance.....	7427
Deceit, things constituting.....	7575
fraudulent.....	7574
upon the public.....	7576
Defined.....	7394
Duty to abstain from injuring what.....	7573
Duty to restore when wrongfully acquired.....	7577
when deemed necessary.....	7578
Effect of directions by creditors..	7427
Extinguished by offer of performance, when.....	7431
Extinguished by performance...	7424
General performance, how applied	7430
General rules applicable.....	7396
How created and enforced.....	7395
Husband and wife—See Husband and Wife.....	5782- 5812
Imposed by law.....	7573- 7579
Impossible or unlawful conditions void.....	7407
Interpretation, how governed...	7396
Joint and several, when....	7397, 7398
Liability for fraudulent deceit..	7574
May be enforced notwithstanding lien.....	8233
Money, obligation to pay, how extinguished.....	7446
Moral obligation as consideration.	7504
Mortgage not a personal.....	8253
Mutual, of husband and wife...	5782
Negligence, responsibility for...	7579
Non-negotiable instrument, transfer by indorsement.....	7415
Not arising from contract, measure of damages.....	8686
Novation	
a contract.....	7462
defined.....	7460
modes of.....	7461
rescission of.....	7463
Offer of part performance, effect	7432
Offer of performance	
ability and willingness essential	7441
by whom made.....	7433
conditional offer, effect of.....	7440
custody of thing offered.....	7449
delay in performance, compensation after.....	7438
effect of creditor's retention of thing.....	7451
effect on accessories of obligation.....	7450
extinguishes obligation, when..	7431
money, obligation to pay, how extinguished.....	7446
objections to mode of offer....	7447
part performance of, no effect.	7432
pecuniary obligations, how extinguished.....	7446

OBLIGATIONS (Continued)

Offer of performance (continued)	
performance of conditions precedent.....	7444
production of thing to be delivered necessary, when.....	7442
things offered to be kept separate.....	7443
title to thing offered.....	7448
to be made in good faith.....	7439
to whom made.....	7434
when made.....	7436
when no time fixed.....	7437
where made.....	7435
with compensation for delay...	7438
written receipt, right of debtor to.....	7445
Other obligations, where prescribed.....	7580
Part performance, effect of acceptance.....	7459
Partial performance, effect of...	7428
Payment defined.....	7429
application of general performance.....	7430
Performance	
by one of several joint debtors	7425
essential, when.....	7405
excused, when.....	7406, 7452
extinguishes.....	7424
in accordance with creditor's directions, effect of.....	7427
to one of joint creditors.....	7426
to one of joint debtors.....	7426
Personal not implied from lien..	8231
Prevention of performance, effect of.....	7453
ratable portion of consideration, when.....	7454
Refusal to accept performance, effect.....	7455
Release extinguishes, when.....	7464
certain claims not affected by..	7465
of joint debtor, effect.....	7466
Responsibility for negligence...	7579
Responsibility for wilful acts...	7579
Restoration of thing wrongfully acquired.....	7577
Rights arising, when transferable	7414
Satisfaction, defined.....	7458
Selection, alternatives indivisible	7411
nullity of alternative.....	7412
right, how lost.....	7410
who has right.....	7409
Several and joint obligations. 7397,	7398
Specific performance not enforceable, when.....	8720
when compelled.....	8714
Tender of payment of money, deposit in bank.....	7446
Transfer of burden, when.....	7413
Transfer of non-negotiable instrument.....	7415
Written receipt, right of debtor to	7445

OBSCENE LITERATURE

Advertisement to cure venereal diseases.....	11144, 11148
--	--------------

GENERAL INDEX.

OBSCENE LITERATURE (Continued)

Advertisement to procure miscarriage	11142
Composing or publishing	11136
Destruction of	11138, 11139
Duty of magistrate	11138
Exhibition, in view of minors	11134
Penalty	11135
Pleading	11861
Seizure authorized	11137
Selling or giving to minors	11134

OBSTRUCTIONS

See also Highways	1726- 1741
Health officer, penalty for	2472
Highway crossings by railroads forbidden	6595
Of	
attempts to extinguish fires	11251
fords	11528
mining shafts	11580
navigable rivers	11489
revenue officers	11322
Public highways, procedure to remove	1627

OBTAINING PROPERTY BY FALSE PRETENSE

Acts punishable	11410-11414
---------------------------	-------------

OCCUPANCY

Confers title, when	6817
-------------------------------	------

OCULISTS

See Optometry	3155- 3169
-------------------------	------------

OFFENSES

See Criminal Offenses	
See also Compromising Offenses	12220-12222
How prosecuted	11798
Not bailable, when	12135

OFFER

Defendant, to compromise after suit	9770
In writing, when equivalent to payment	10680
Of compromise	
before trial in justice court	9687
not admission	10684
performance—See Obligations	7431- 7451

OFFICE HOURS

County officers	4736
Designation of	453
Of county superintendent of schools	974

OFFICERS

See also Arrest	
See also Corporations	
See also Public Officers	
Actions against	
for property seized, time for commencement	9034
when tried	9094
Administrative officers subject to what laws	10833
Appointing deputies for reward	10830

OFFICERS (Continued)

Arrest	
powers of	11750
without lawful authority	10921
Asking or receiving bribes	10824
Assault by, under color of authority	10929
Assumption to act, without right	10822
Authority to break into buildings where games played	11168
Banks	
See Banks and Banking	6014- 6109
overdrawing accounts	11442
Bonds of—See Official Bonds	
Breaking open doors, etc., search-warrant	12402, 12403
Bribery of	
executive	10823
judicial, etc	10853
school trustees	10862
Buying appointment	10829
Collection of revenue, refusal of inspection of books	11330
Conviction, forfeiture of office	11600
Court may remove, in addition to penalty	11588
De facto, validity of acts	10822
Delay in taking prisoner before magistrate	10920
Destruction of counterfeit trademarks, etc	11207
Disqualification from holding office, when	10861
Duties concerning prohibition law—See Intoxicating Liquors	
Duty to notify public administrator, when	9995
Duty to prevent duels	10985
Entries made by, prima facie evidence	10576
Exempt from payment of costs, when	9810
Exercising functions wrongfully	10831
Extortion	10826, 11389-11405
Extortion under color of official right	11395
Failure to pay over public money	11319
False certificates, misdemeanor	10945
False claims, presenting for payment	10828
Falsifying jury-list	10877
Fees as to fugitives, not recoverable	12428
Fees must be itemized	9813
Fines, collected by, payable to justice	12346
Fire department, unlawfully issuing certificates of exemption	11526
Force, right to use, when	10980
Illegal interest in contracts	10827
Impeachment of, preserved	10716
Impeachment, when and how—See Impeachment	11668-11686
Inhumanity to prisoners	10922
Judicial—See Judicial Officers	
Lien of	8391
Ministerial officers subject to what laws	10833
Need not give bonds, when	9829

GENERAL INDEX.

OFFICERS (Continued)

Neglecting duty as to gambling, forfeiture	11171
Neglect of duty as to gambling, punishment	11171
Not to disclose filing of information	11628
Of schools, bribery	10862
Offenses by and against—See Public Officers	10821-10863
Omission of duty by, punishment for	10950
Oppression	11394
Oppression under color of authority	10952
Peace officers—See Peace Officers	
Penalty for acting without qualifying	10821
Permitting escapes	10869
Personating, forbidden	10926, 10927
Police, rescue of prisoners from ..	10864
Proceedings for removal, how instituted	11799
Public moneys, wrongful acts of ..	11318
Public officers, garnishment of ..	9294
Purchasing scrip forbidden, when ..	10827
Receiving pay for arrest of fugitives	10919
Receiving reward for appointing deputy	10830
Records, destruction of, by	10873
Refusal to	
arrest criminals	10916
lend aid to, in arrest	10930
pay over public moneys	11319
surrender books to successor ..	10832
Removal by summary proceedings ..	11702
Removal for nonenforcement prohibition laws	11117
Removal on accusation presented by grand jury	11688
accusations, etc., where filed ..	11800
delivery to county attorney ..	11690
answer upon overruling of objections	11695
appeal, how taken	11700
attendance of witnesses	11698
copy of accusation to county attorney	11690
costs	11702
county attorney, procedure for removal	11701
demurrer or answer	11692
denial, how entered	11694
failure of defendant to appear ..	11691
for malfeasance or misfeasance ..	11687
form of accusation	11689
form of objection to accusation ..	11693
from office, appeal	11700
from office, when	11588
how prosecuted	11799
illegal fees	11702
judgment of conviction	11699
manner of denial of accusation ..	11694
of county attorney, procedure ..	11701
proceedings if defendant does not appear	11691
process for witnesses	11698

OFFICERS (Continued)

Removal on accusation presented by grand jury (continued)	
service of accusation	11690
trial by jury	11697
trial of accusation, when	11696
vacancy pending appeal	11700
what officers subject to	11687
when to be summary	11702
Resistance to	10928, 11655, 11656
Riots, commanding dispersal	11658
Seizure of gambling devices	11166
Summary proceeding to remove ..	11702
Suspension of, preserved	10716
When not punishable for neglect of duty	11589
When use of force not unlawful ..	10980
Wilful omission of duty	10950
Wrongful holding over after successor elected	10831

OFFICIAL ACTS

How proved	10568
------------------	-------

OFFICIAL BONDS

See also Bonds

Actions on, certification of pendency	505, 506
effect on actions for specific performance	509
Additional	487
force of original	488
form of	487
liability of sureties	489
Adjutant-general	464, 1349
Affidavit to be filed in actions on actions to compel specific performance, rights of purchaser clerk to endorse filing	506
lien created by	506
All county officers, enumerated ..	466
All state officers, enumerated	464
Application of chapter to what bonds	503
Approval	
of bonds of	
county officers	471
state officers	469
township officers	471
to be endorsed on bond	473
Auctioneer's	4147
Auditor	
county	466, 4826
state	157, 464
Board of managers of soldiers' home	1530
City and town officers	5013, 5017
Civil liability attaches to	4737
Clerk of supreme court	376
Commissioner of agriculture	3557
Conditions of	475
Constable	4860
Construction of	480
Contractor, rural improvement districts	4582
Contribution, between sureties ..	491
County	
all county officers enumerated ..	466
clerk, where filed	508

GENERAL INDEX.

OFFICIAL BONDS (Continued)

County (continued)	
commissioners	466, 4455
liability on.....	4520
not to become sureties on....	476
officers	
enumerated	466, 467
inspection of.....	4744
investigation by judge.....	4744
not named, how fixed.....	467
Custodian of state capitol.....	315
Custody of.....	478
Defective	485
Defects not to vitiate, when....	484
Deputies must give.....	507
Deputy state officers.....	122
Endorsement of approval.....	473
Engineer, state.....	465, 1957
Examiner, state.....	223
Executed, how.....	475
Fees for filing.....	145
Filing and approval.....	469, 474
Fire marshal, state.....	464, 2760
Fish and game commission.....	3651
Fish and game warden and deputy	3660
Force of original.....	488
Forester, state.....	465, 1830
Form of.....	479
Game and fish commission.....	3651
Highway commissioner and as-	
sistant	464, 1783
In name of state, when.....	504
Indexes by county clerk.....	4799
Industrial accident board....	2821, 2822
Inspection of, by county com-	
missioners	4744
Land agent, state.....	465, 1824
Librarian, county.....	466
Librarian, state library.....	1559
Notaries public.....	394
Pendency of action, certification	
of	505, 506
Place of filing.....	469
Public administrator.....	466
Qualifications of sureties.....	476
Railroad commissioners.....	464
Record of.....	472
Register and deputy register of	
state lands.....	464, 1818, 1819
Release of sureties.....	494
service of statement.....	496
statements to be filed by surety	495
Scope of act.....	503
Secretary of state.....	148, 464
where filed.....	470
Separate judgments on.....	490
Sheriff	466
State	
accountant	309
examiner and assistants.....	223
land board and employees....	1817
officers	
enumerated	464, 465
not named, how fixed.....	465
purchasing agent.....	284
Successive suits on.....	483
Suits on.....	482

OFFICIAL BONDS (Continued)

Superintendent of	
public instruction.....	464
schools.....	466
state fisheries.....	3664
Supplemental	498
when required.....	500, 501
Sureties	
contribution between.....	491
discharge of, effect on.....	492- 502
effect of release or withdrawal.	
.....	499- 501
extent of liability.....	480, 481
insufficiency of, citation and va-	
cation of office.....	486
liability of officers and sureties	
.....	475, 489
notice of withdrawal, publica-	
tion of.....	501
qualifications	476
release of.....	494
treasurer	
county	466
state	188, 464
when liable for less than full	
sum	477
withdrawal of	
duty of principal.....	500
not to affect others.....	499
Time for filing.....	468
To what bonds act applicable....	503
Treasurer, state.....	188, 464
Trustees' and receivers', form of	504
Vacancies	
bond of appointees.....	493
caused by failure to file.....	511
for want of bond.....	497
When not designated.....	465, 467

OFFICIAL DOCUMENTS

See also Evidence	
How proved.....	10568

OIL

Crude, license tax on—See Tax-	
ation	2397- 2408

OIL AND GAS

Carbon black, use for, prohibited	3551
Casing oil and gas wells.....	3547
Common carrier pipe lines, regula-	
tion of—See Common Carrier	
Pipe Lines.....	3848- 3858
Filling and plugging wells.....	3548
Leases on state lands.....	1882
Liens on wells—See Liens...8375-	8377
Penalty for violation of act.....	3549
Plugging wells	
abandoned	3548
penalty for violation of act....	3554
required	3553
Release of leases of record, pro-	
cedure	6902- 6904
Reservation of rights on sale of	
state lands.....	1852
Wasteful use of natural gas pro-	
hibited	3550- 3552

OIL PIPE LINES

Regulation of—See Common Car-	
rier Pipe Lines.....	3848- 3858

GENERAL INDEX.

OIL ROYALTIES

See Royalties.....1211, 1212

OILS

Inspection of—See Gasoline and
Oils4193- 4208
Use in coal mines..... 3536

OLEOMARGARINE

Label required..... 11248
penalty for violation of act.... 11250
printed notice..... 11249
License to sell..... 2435
Regulation of use..... 2622

OMISSIONS

From negotiable instruments, ef-
fect 8413
In wills 7039
When not punishable..... 11589

ONIONS

Pounds in bushel..... 4226

OPEN POLICY

Defined 8116

OPINIONS

As evidence—See Evidence
Of supreme court in writing..... 8801

OPIUM AND OPIATES

Abatement of building when used
.....11123-11133
Cities may regulate sale of..... 5039
Commerce in prohibited..... 3189
Dentists may obtain permits..... 3189
Drug addict
commitment to
hospital 3195
sheriff 3196
cost of commitment how de-
frayed 3197
county attorney to file com-
plaint against..... 3194
court may conduct examination
defined 3194
discharge from hospital..... 3195
not to be liberated until report
made 3198
peace officer to report to county
attorney 3198
physicians to report to county
attorney 3194
regulation of physicians' pre-
scriptions 3194
revocation of physicians' license 3199
reissuance of license..... 3199
warrant for arrest..... 3195
Good faith defined..... 3192
Improper sale of..... 11239
Keeping or resorting to place
where used..... 11045
Penalty for violation of act..... 3202
Physicians
may prescribe..... 3189
to keep record..... 3192
Possession evidence of violation
of act..... 3200
exception 3200

OPIUM AND OPIATES (Continued)

Prescribing for drug addicts..... 3192
Proprietary medicines, disposal of 3190
Record
kept for two years..... 3192
public 3193
Regulation of sale of, generally.. 3186
Restrictions upon sale or prescrip-
tion 3187
penalty for violation of..... 3188
Sale, when and to whom forbidden 11239
exceptions 11239
State board of health to enforce
act 3193
United States officers may inspect
records 3193
Veterinarians may obtain permits 3189
What preparations excepted from
act 3190
When unlawful
to administer..... 3192
to have in possession..... 3200
Who may administer..... 3192
Written prescriptions
contents of..... 3191
disposition of..... 3191
filing of..... 3191

OPPRESSION

By officers under color of author-
ity 10952
Under color of official right..... 11394

OPTIONS

As to notice of delivery..... 7603
As to place of performance..... 7435
Of beneficiary on breach of trust 7897
On confusion of goods..... 6833
Selection between alternatives.. 7409

OPTOMETRY

Board of examiners in
appeals to district court..... 3166
compensation 3165
creation and term..... 3157
examination of applicants..... 3159
fees of applicants..... 3159
oath of..... 3157
organization and meetings..... 3158
reports of..... 3165
revocation
appeals 3166
of certificates by..... 3166
secretary, election of..... 3158
term 3157
Certificates
penalty for failure to apply for 3163
registration of..... 3162
renewal fee..... 3161
revocation of..... 3166
to
be displayed in office..... 3164
whom issued..... 3160
Defined 3155
Jurisdiction of justices of peace 3168
Penalty for violation of act..... 3167
Physicians, when exempt from act 3169

GENERAL INDEX.

OPTOMETRY (Continued)

- Practice without certificate forbidden 3156
- Secretary, election and powers... 3158

OPTOMETRY, BOARD OF EXAMINERS IN

- See Optometry.....3155- 3169

ORAL

- Agreements superseded by writing 7520
- Alteration of contract..... 7568
- Contracts, what may be..... 7517
- Declarations may not vary auctioneer's written notice..... 7628
- Declarations may not vary contract in writing..... 7569
- Nuncupative will..... 6980
- Representations in insurance..... 8093
- Transfers, when may be..... 6841

ORAL EXAMINATION—See Evidence

ORCHARDS

- Regulation of—See Agriculture, Labor and Industry, Department of.....3608- 3633
- Tracts, platting and filing..... 4993

ORDER OF TRIAL

- Designation of,..... 11969

ORDERS

- See also Motions and Orders
- See specific subject treated
- Appeal
 - record on..... 9745
 - to supreme court, from what taken 9731
- Appealable to supreme court, when 9731
- Defined 9772
- Discharge from prison..... 9881
- Effect of judicial orders other than judgments..... 10559
- Final, effect of..... 10558
- For payment of money, how enforced 9777
- How published..... 9833
- How reviewable by supreme court 9729
- In probate proceedings
 - certified copy to be filed..... 10371
 - facts need not be stated in... 10355
 - power of clerk to enter..... 10376
 - where entered..... 10355
- In special proceedings, definition. 9835
- Made out of court, vacation or modification, notice..... 9776
- May be made by judge in any part of state..... 9773
- Not final, effect of..... 10559
- On application for change of name 9966
- Subsequent application to courts
 - forbidden, when..... 8877
 - violation a contempt..... 8873
- To show cause, when hearing may be transferred..... 9775

ORDINANCES

- See Cities and Towns.....5054- 5068
- Action for violation, when to be commenced 9034
- How pleaded in police court..... 9725
- How referred to in police courts.. 12302
- Private statutes, how pleaded.... 9174
- Void if in conflict with gambling law 11179

ORE

- See Mines and Mining, subtitle ore 3436- 3446
- Changing samples for assay..... 11420
- Making false samples of..... 11421

ORGANIC LAW

- Defined 10547

ORPHANS' HOME, STATE

- Admission of children to..... 1485
- Adoption of children from..... 5867
- Age limit..... 1505
- Applications for admission, to whom made..... 1503
- Commitments of dependent and neglected children, when.... 10470
- County superintendent of schools
 - as agent of..... 1501
 - duty to investigate and report 1503
 - record of agent..... 1502
- Course of study..... 1490
- Court may commit children of divorced parents..... 1504
- Establishment 1484
- Free education of inmates
 - authorization of..... 1492
 - control of students while attending other institutions... 1497
 - designation of institutions by executive board..... 1496
 - expense, how paid..... 1494
 - provisions for..... 1492, 1493
 - record of scholarship..... 1495
 - selection of students..... 1495
- Funds 1499
- Grounds for home..... 1498
- Incorrigible children, commitment to industrial school..... 1506
- Matron
 - appointment and term..... 1487
 - duties 1489
 - employment of..... 1487
- Montana children's home society
 - authority to take children from orphans' home..... 1507
 - compensation 1510
 - placing and care of children.. 1508
 - record and report to governor.. 1509
- Penalty for misconduct..... 1500
- Superintendent
 - appointment, term and duties.. 1487
 - employment of..... 1487
 - qualifications and powers..... 1488
- Supervision and control of..... 1486
- Training of inmates..... 1491
- Who entitled to admission..... 1485

GENERAL INDEX.

ORTHOPEDIC COMMISSION, MONTANA

See Health, State Board of..2511- 2514

OSTEOPATHIC EXAMINERS, BOARD OF

See Osteopathy.....3125- 3137

OSTEOPATHY

Certificate

license fee for..... 3127
not to authorize practice of
medicine 3130
practice without, forbidden.... 3127
requirements for..... 3127
revocation of..... 3133
temporary 3128
Definition of..... 3136
Fee for license..... 3127

License

practice without, prohibited... 3132
record of..... 3131
Not practice of medicine..... 3137
Osteopathic examiners, board of
appeals to district court..... 3129
appointment, qualifications and
term 3125
certificate of qualification..... 3126
certificates
issuance by 3126
registry of..... 3126
temporary, when granted.... 3128
compensation 3134
examinations
appeals to district court.... 3129
regulation of..... 3129
subjects 3129
graduates licensed without ex-
amination, when..... 3135
granting of licenses..... 3129
officers 3126
reports of..... 3134
subjects of examination..... 3129
vacancies on, how filled..... 3125

OTTER

Open season for..... 3704

OVERCHARGE

By railroad employees..... 11401

OVERDRAFTS

By bank officers prohibited..... 6055

OVERT ACT

Evidence on trial for conspiracy.. 10900
Evidence on trial for treason.... 11978

OWNERSHIP

See Property....6663-6665, 6673- 6721
Presumptions arising from..... 10606
Products of the mind..... 6806

PACKING-HOUSES

License

from livestock sanitary board.. 3285
how regulated..... 3283

PALMISTS

See Fortune-tellers.....11522-11524

PANEL

Challenge to

defined 11944
upon what founded..... 11945
when and how taken..... 11946
Defined 11943

PAPER MONEY

Unlawful issuance of..... 11525

PAPERING

Apartment and tenement-houses,
regulation of.....2499- 2502

PAPERS

Defective titles, effect of..... 9818
Inspection of..... 9771
Jury may take to jury-room..... 9352
No fees for copies, when..... 9832
Refusal to surrender..... 10832
Service of.....9778- 9785
Service on prisoners..... 12480
To be furnished
on appeal..... 9745
supreme court, when certified.. 9746
To be taken by jury on retire-
ment 12011
Use of initials permissible in.... 9190
When lost, how supplied..... 9817

PARDONS

Applications for parole, how con-
sidered 12266
Board of pardons
board to convene for considera-
tion of pardons, when..... 12249
composition118, 12247
counsel may be heard..... 12254
decision and dissent to be re-
corded 12256
meetings of the board..... 12248
order fixing time for hearing
form of..... 12250
proof of publication..... 12252
publication of order, how
made 12251
papers to be transmitted to sec-
retary of state..... 12255
pardons to be approved by.... 12247
publication not necessary, when. 12261
record of meeting, contents of.. 12253
record of proceedings, contents
of 12257
rules, power to prescribe..... 12258
Citizenship, power of governor to
restore 12263
Commutations, power of governor
to grant 12247
Governor
may require report from judge. 12260
may respite..... 12262
to report pardons to legisla-
ture 12259
Paroled prisoners still in legal
custody 12265
Power of governor to grant.... 12247
Prisoners, how paroled..... 12264
Respites, power of governor to
grant 12262

PAREGORIC

Excluded from sale of opiates.... 11239

GENERAL INDEX.

PARENT AND CHILD

- For laws concerning employment of children and liability of parent—See Child Labor. 3095- 3104
- See Children
- See also Guardian and Ward. 5868- 5889
- See also Juvenile Delinquents. 12275-12301
- See also Montana State Industrial School 12488-12515
- See also Protection of Dependent and Neglected Children. 10465-10479
- Adoption of minor children—See Adoption 5856- 5867
- Child to support indigent parents, when 5853
- civil action to enforce duty. 5855
- penalty for failure to support. 5854
- Compensation after majority of child 5847
- Consent of parent to marriage, when 5712
- Custody
 - and earnings of child, who entitled to. 5834
 - and earnings of illegitimate child 5837
 - of child on annulment of marriage 5732
 - when husband and wife separate 5835
- Desertion of children. 11020
- Disposing of child for mendicant purposes 11021
- Duty to
 - send children to school. . . 1135- 1140
 - support and educate children. 5790, 5833
 - property liable for. 5790
- Exclusive control of children, actions for. 5836
- Father or mother may sue for
 - injury or death, when. 9075
 - seduction, when. 9074
- Husband not liable for support of wife's children. 5846
- Illegitimate children
 - right of mother to inherit. 7075
 - rights of inheritance of. 7074
- Legitimacy of children
 - after dissolution of marriage. 5831
 - born before wedlock. 5852
 - born in wedlock. 5830
 - by whom disputed. 5832
 - how proved. 5832
- Necessaries, liability of parent for
- Parent
 - estate of, applied to support of child, when. 5842
 - not liable for support, when. 5845
 - not to control property of child. 5839
- Parental authority ceases, when. 5841
- Penalty for improper training of children 12293
- Promise of child to pay for necessities 5843
- Punishment of parents of dependent and neglected children. 10472
- Reciprocal duties of. 5843

PARENT AND CHILD (Continued)

- Relinquishment to child of rights. 5848
- Remedy for parental abuse. 5840
- Right of
 - inheritance 7073
 - parent to determine residence. 5850
- Support of
 - child, allowance for. 5838
 - indigent parents, civil action to enforce 5855
 - infirm poor. 4522
- Use of firearms prohibited, when. 11565
- Wages of child, to whom paid. 5849
- Who must support children. 5833
- Wife may obtain custody of child, when 5851

PARIS GREEN AND OTHER

POISONS

- Adulterated, sale of, forbidden. 2600
- Analysis of unbroken packages. 2607
- Certificate, fees for. 2611
- Collection of samples in original packages 2605
- Defense of prosecution guarantee. 2609
- Disposal of, when condemned. 2610
- Duty of state entomologist. 2605
- Examination of unbroken packages 2606
- Experiment station to issue certificate 2611
- Fines, disposal of. 2612
- Fungicide defined. 2608
- Insecticide defined. 2608
- Lead arsenate defined. 2608
- Misbranded, sale of, forbidden. 2600
- Paris green, defined. 2608
- Penalty for violation of act. 2613
- Person defined. 2614
- Regulation of sale. 2600
- Shipment when adulterated or misbranded forbidden. 2601
- Transportation when adulterated forbidden 2610
- When deemed
 - adulterated 2602
 - misbranded 2603, 2604

PARK COUNTY

- Boundaries and county seat. 4337

PARKS

- See Cities and Towns. 5159- 5167
- Dedication in city plats. 4981
- Glacier, jurisdiction over. 22
- Injury to trees in. 11497
- Vacation of, on petition, procedure 5309
- Yellowstone, jurisdiction over. 23

PAROL EVIDENCE—See Evidence, subtitle parole evidence

PAROLE

- See also Suspended Sentence. 12078-12086
- Application for parole, how considered 12266
- On indeterminate sentence. 12076
- Paroled prisoners still in legal custody 12265
- Prisoners, how paroled. 12264

GENERAL INDEX.

PAROLE COMMISSIONER, STATE

Appointment	12516
Duties	12517
Paroles, duties concerning.....	12517
Salary	12518
Term of office.....	12516

PARSNIPS

Pounds in bushel.....	4226
-----------------------	------

PARTICULARS—See Bill of Par- ticulars

PARTIES

Action not to abate, when.....	9086
Actions in name of party in in- terest	9067
Appearance in person or by attor- ney	8988
Assignment not to prejudice de- fense	9068
Associates in business.....	9089
Change of venue by agreement of, costs	9100
Complaint must contain names of.	9129
Court may order parties in.....	9090
Death by wrongful act, represen- tative may sue for, when....	9076
Death or disability, effect.....	9086
Defendants	
fictitious name.....	9190
in	
adverse claim, joinder of....	9081
ejectment	9078
eminent domain.....	9942
in forcible entry and detainer.	9892
quo warranto.....	9582
who may be joined as.....	9078
Either party may	
bring issue to trial.....	9331
have exceptions settled.....	9394
Executors and administrators....	10263
Father may sue for injury or death of child.....	9075
Father may sue for seduction of daughter	9074
Fictitious names, use of, where allowed	9190
Foreclosure proceedings.....	9467
Guardian ad litem	
appointment, when necessary...	9071
how appointed.....	9072
Guardian may sue for injury or death of ward, when.....	9075
Holder of overdue negotiable paper may sue, when.....	9092
How designated.....	9009
How served with notices and papers	9779
Husband and wife.....	9070
In	
actions for partition.....	9518, 9519
lienholders	9521-9529
unknown	
how served with summons.	9524
interest to be protected....	9551
rights determined.....	9527
contesting probate of will.....	10032
forcible entry and detainer....	9893

PARTIES (Continued)

In (continued)	
justices' courts.....	9629
special proceedings, how desig- nated	9834
Infants	9071, 9072
Insane or incompetent persons ap- pear how.....	9071
Interpleader, when maintained...	9088
Intervention, how made.....	9088
Joinder	
of	
defendants in actions to de- termine claims of real prop- erty	9081
parties defendant, when....	9078
parties in interest, when....	9083
parties plaintiff, when.....	9077
state as defendant, when....	9079
when holding lands under a common source	9082
Joint tenant against cotenant....	9091
Landlord may be joined as de- fendant, when.....	9078
Married women.....	9069, 9381, 9382
May object to referee.....	9381, 9382
Mechanics' liens, foreclosure.....	8347
Misjoinder, ground for demurrer.	9131
Must subscribe pleadings.....	9162
Nuisance	9474
One or more may sue or defend for all, when.....	9083
Other parties, how brought in....	9090
Plaintiff	
may include different parties to commercial paper.....	9084
who may be joined.....	9077
Pleadings, allowed to.....	9127
Real party in interest must prose- cute	9067
Real property, title under common source	9082
Representatives may sue for death, when.....	9076
Security for costs, when.....	9807
Seduction, statutes governing par- ties in actions.....	9073, 9074
Substitution of defendants.....	9087
Summons to contain names of....	9107
Tenants in common.....	9085
may sue jointly or severally, when	9085
right to sue cotenant.....	9085
To	
actions	
on commercial paper, who may be sued.....	9092
to foreclose liens—See Liens	
civil actions.....	9067-9092
how designated.....	9009
contract	7469
minors	5679
persons of unsound mind...	5676
third persons may enforce, when	7472
crime, classification of.....	10731
criminal action.....	11609

GENERAL INDEX.

PARTIES (Continued)

To (continued)	
special proceedings, how designated	9834, 12429
Trustees of express trust defined	9067
Unmarried women may sue for seduction	9073
Use of initials permissible in papers	9190
When	
deemed same in different actions	10560
defendant deemed plaintiff, and plaintiff deemed defendant...	9312
one may sue for all.....	9083
Who may be joined as.....	9082, 9083
not to be witnesses, when....	10535
redeem mortgages	9044
Wife may defend, when.....	9070

PARTITION

Abstract	
costs of, when allowed.....	9573
how made and verified.....	9574
Action by	
executors	10257
heirs and executors.....	10138
whom brought.....	9516
Allotment to tenants in common, procedure.....	9535
improvements, how allotted....	9535
Answer, contents of.....	9525
City lots and tracts	
procedure on sale.....	9532
referees and appraisalment....	9532
Compensation adjudged when partition impossible.....	9563
Complaint, contents of.....	9520
Conveyances	
executed on confirmation.....	9556
must be recorded.....	9558
Cost of	
abstract, when allowed.....	9573
suit a lien on shares.....	9570
how apportioned	9539
of previous litigations allowed, when.....	9572
Court may order	
partial, when.....	9528
sale, when.....	9531
Death or insanity of parties, effect of.....	9533
Disbursement, interest.....	9575
Dower interests, how sold....	9567, 9568
Duty of clerk in making investments	9562
Estates for years or life, how disposed of.....	9541
Expenses of	
previous litigation allowed, when	9572
referee, apportionment of.....	9539
Future rights, how settled.....	9552
Guardian may consent to without action, when.....	9566
Improvements of tenants in common	9535

PARTITION (Continued)

Infant may sue, how.....	9517
Insanity of party, effect of.....	9533
Interest, when allowed.....	9575
Investments, duty of clerk concerning	9562
Judgment	
conclusiveness of.....	9537
effect of, on certain tenants for years	9538
Lien on undivided interest.....	9540
Lienholders	
as parties, procedure.....	9529
as purchasers.....	9557
not of record to be parties, when	9521
to be notified	9530
Lis pendens to be filed.....	9522
Lots and farms sold separately..	9553
Lots and subdivisions, sale of....	9532
Married women may release dower interest, how.....	9569
Of dominant tenement, how.....	6755
Of undivided estates after distribution—See Probate Proceedings	10334-10345
One referee appointed, when....	9571
Other securities, how applied....	9543
Partial partition, when made....	9528
Parties	
who may be.....	9519
who must be.....	9518
Place of trial.....	9093
Proceeds	
of sale	
disposal of.....	9542-9544
for unknown parties, investment of.....	9559, 9560
of incumbered property, how applied	9542
paid into court, when.....	9545
Proof of rights of unknown parties	9527
Publication of summons.....	9524
Purchasers, who may not be....	9554
Referees	
appointed, when.....	9531
ascertain if liens paid.....	9529
may lay out roads.....	9534
to make report.....	9536
judgment on confirmation of to take security for purchase money, when.....	9537
9548	
Rights of parties, partition accordingly	9534
Sales	
at public auction.....	9546
court to direct terms.....	9547
investment of proceeds, how... securities in name of parties	9560
lienholder as purchaser, procedure	9557
report to court.....	9555
who may not purchase at.....	9554
Setting apart highways.....	9534
Share of infant paid to guardian	9564
Share of insane person, how paid	9565

GENERAL INDEX.

PARTITION (Continued)

Summons	
by publication, when made....	9524
how directed.....	9523
Tenants in common, partition of	
lands	9535
Tenants to receive compensation.	9549
court	
may fix amount.....	9550
to protect future interests...	9552
to protect unknown tenants.	9551
Terms of sale to be made known	9553
Title of parties may be tried....	9526
Title to be ascertained before sale	9527
To be made according to rights of parties	9534
Unknown	
owners, order to designate portion owned by.....	9531
parties, how served.....	9524
Who may bring action.....	9516
Who must be parties.....	9518

PARTITION FENCES

See Fences.....	6778- 6782
-----------------	------------

PARTNERSHIP

Accounting, liability of partners for	7991
Act or declaration, partner as evidence	10531
Assessment of property for taxation	2013
Attachment, how released.....	9289
Authority	
not possessed by partners.....	7998
of individual partners.....	7997
Compensation for services to firm forbidden	7992
Confidential relationship.....	7989
Contracts restricting business of retiring partner.....	7561
Defined	7981
Dissolution	
by change of name, when.....	8013
partial, how effected.....	8010
total, how effected.....	8009
partner entitled to.....	8011
termination, notice of.....	8012
Division of losses implied, when..	7986
Execution against.....	9425
Formation, how.....	7982
General	
acts in bad faith, when not binding	7999
authority of partners.....	7998
certain authority not possessed	7998
defined	7995
dissolution	
partial, how effected.....	8009
partner entitled to.....	8011
powers of partner after.....	8014
total, how effected.....	8009
duration of.....	8008
engaging in certain business	
forbidden	8001
permitted	8002
fictitious name	
certificate to be filed.....	8020

PARTNERSHIP (Continued)

General (continued)	
copy of register as evidence..	8023
individuals using, must file certificate.....	8024
new certificate on change of membership	8021
register to be kept.....	8022
regulation of use.....	8019
individual partner, authority of	7997
liability	
as partners, when.....	8007
of	
ostensible partner.....	8006
partners as agents.....	8005
partners to third persons..	8004
liquidation	
powers of partners	
after	8014
in	8017
to act.....	8018
who may act in.....	8015
notice of termination	
by change of name.....	8013
publication of.....	8012
partner to account for profits..	8003
powers of majority of partners.	7996
profits of individual partner...	8000
who may	
act in liquidation of.....	8015
not act in.....	8016
Good faith to be observed.....	7990
How	
property of deceased partner	
sold	10202
sued	9089
Judicial officer not to have law partner	8870
Law partners not to appear on opposite sides.....	8986
Mining partnerships	
contracts in writing binding, when	8058
exist, when.....	8050
express agreements not necessary to constitute	8051
lien of partners.....	8053
not dissolved by sale of partner's interest.....	8055
owners of majority of shares govern	8059
partnership property comprises what	8054
profits and losses, how shared..	8052
purchaser takes	
subject to liens, when.....	8056
with notice of lien, when...	8057
Partner	
good faith of to be observed...	7990
interest of, in property.....	7984
may	
compromise with creditor, effect	9768
not be administrator.....	10068
require application of property to debts, when.....	7987

GENERAL INDEX.

PARTNERSHIP (Continued)

Partner (continued)	
mutual liability to account....	7991
no pay for service to firm.....	7992
of county attorney not to defend, when.....	8984
renunciation	
effect of.....	7994
of future profits, exoneration	7993
share in profits and losses.....	7985
trustees	
for each other, when.....	7989
of property of decedent.....	10261
Partnership	
interest defined.....	6681
property by presumption, when	7988
property defined.....	7983
Petition for sale of mine by.....	10206
Pleadings as to property.....	11869
Presumption as to.....	10606
Property, comprises what.....	7983
Receiver for, when appointed....	9301
Renunciation of future profits, effect of.....	7993, 7994
Shares in profits and losses equal	7985
Special partnerships	
affidavits as to contribution to be filed.....	8029
certificate	
affidavit of publication to be filed.....	8032
to be published.....	8031
certified statement	
acknowledgment and recording.....	8028
to be filed.....	8027
conduct of business under firm name.....	8049
consists of what.....	8026
dissolution how, filing of notice	8048
formation, how and for what purpose.....	8025
general partners may sue and be sued, how.....	8037
interest in profits, how regulated.....	8039
kinds of partners.....	8026
liability when name used in firm.....	8049
liability of	
contributions of special partners.....	8043
general partners.....	8042
special partners for unintentional act.....	8044
loans of money, power to make	8036
new special partners, how admitted.....	8047
not formed until compliance with law.....	8030
powers of	
general partners.....	8034
special partners.....	8035
special partners to loan money.....	8036
preferential transfers void....	8041
renewal, certification of.....	8033

PARTNERSHIP (Continued)

Special partnerships (continued)	
result of withdrawing capital by special partner.....	8040
special partners liable as agent, when.....	8049
special partners may advise....	8035
special partnership becomes general, when.....	8046
suits, power to conduct.....	8037
who may question existence....	8045
withdrawal of capital forbidden, when.....	8038
result of.....	8040
Surviving partner, right and duties.....	10261
Term of.....	8008

PARTNERSHIP INTEREST

Defined.....	6681
--------------	------

PARTRIDGE

Certain counties closed until 1923	3701
Killing forbidden.....	3700
Limit of bag.....	3701
Open season for.....	3701

PARTS

Of Civil Code.....	5669
--------------------	------

PART-TIME SCHOOLS

See Schools, Public.....	1141- 1156
--------------------------	------------

PASSENGER CARS

Placing in front of freight forbidden.....	11254
--	-------

PASSENGERS

See Carriage	
See Common Carriers	
See Railroads	
Expulsion by carriers, use of force	10980
Refusal of railroads to receive..	11218

PATENT MEDICINES

Excepted from prohibition law...	11050
Sale of, when permitted.....	3181

PATENTS

From state, when may be recorded	6892
From United States, when may be recorded.....	6892
Issuance of on purchase of state lands.....	1863- 1865

PATRIOTISM

Duty of public schools to teach..	1079
-----------------------------------	------

PAUPERS—See Poor

PAUPER'S OATH

Affidavit.....	9809
On discharge from prison.....	9880
Release from imprisonment.....	12071

PAWNBROKERS AND JUNK-DEALERS

Conducting business without license.....	11184
Interest charges by.....	4186
Interest rate.....	11186

GENERAL INDEX.

PAWNBROKERS AND JUNK-DEALERS (Continued)

License	
of pawnbrokers.....	2434
to be procured.....	4186
Penalties for violation of act....	4192
Register, duty to keep.....	11185
Register, failure to produce for inspection	11187
Register to be kept.....	4191
Search-warrants	
bond on.....	4189
conditions of bond.....	4190
seizure and delivery of property	4189
service of.....	4188
when to issue.....	4187

PAYMENT

Application of general performance, how.....	7430
Effect as performance.....	7429
For subscribed capital stock—See Corporations	5967- 5970
Guaranty of.....	8182
Of principal or interest, effect as new promise.....	9062
Offer in writing equivalent to, when	10680
Offer of, stops running interest..	7450
Offer of, when required.....	9811
Person entitled to receive, when.	10681
Presumption as to.....	10606
Right of debtor to prefer creditors	8601
Tender, rules governing....	10680-10682
To satisfy statute of frauds under sale of personal property....	7591

PEACE

See also Security to Keep the Peace	11637-11652
Bringing armed men into state forbidden, when.....	11315
Disturbance of.....	11297
Duty of mayor to order force to preserve, when.....	11654

PEACE OFFICERS

Arrest with or without warrant, when	11753
Defined	16, 10713, 11620
Drug addicts, duties concerning..	3198
Duties concerning stolen property—See Stolen Property..	12240-12246
Duties in enforcement of prohibition law—See Intoxicating Liquors	11048-11133
Duty	
concerning fish and game laws.	3756
to arrest violators of prohibition law.....	11106
to assist livestock sanitary board	3284
to furnish evidence of violations of prohibition law....	11116
to prevent duels.....	10985
Ex officio deputy fish and game wardens	3663
Intervention to prevent crime....	11635

PEACE OFFICERS (Continued)

May	
break in doors, when.....	11761, 11762
carry concealed weapons.....	11304
kill disabled animals, when....	11509
Persons aiding in prevention of crime justified.....	11636
Refusal to arrest persons, penalty for	10916
Removal for failure to perform duty concerning prohibition law, procedure.....	11117
Trainmen are, when.....	11570
Warrants directed to.....	11735-11737
Warrants executed by.....	11735-11737
Who are.....	11620

PEACE, SECURITY TO KEEP

See Security to Keep the Peace..	
.	11637-11652

PEAS

Pounds in bushel.....	4226
-----------------------	------

PEDDLERS

See Itinerant Vendors.....	2421- 2429
Exemptions	9428

PEDIGREE

Declarations of decedent, evidence of	10513
Evidence of, what admissible as..	10531
False pedigree of animals.....	11417
Selling under false.....	11418
Stallions and jacks—See Stallions and Jacks.....	3357- 3373

PENAL CODE

Civil remedies not barred by.....	10715
Construed how.....	10710
Court-martial, authority of preserved	10717
Definitions	10713
Effect of, upon past offenses....	10712
Effective, when.....	10709
Parts of.....	10708
Proceedings to remove officers, preserved	10716

PENAL DAMAGES

See Damages.....	8694- 8698
------------------	------------

PENALTIES

See also Criminal Offenses	
See also Fines	
See also Punishment	
Action, time for commencing....	9032
Disobedience of writ of mandamus	9860
In contempt proceedings.....	9917
Place of trial.....	9094
Practicing law without license....	8943
Recoverable in civil actions.....	10715
Refusal to produce will....	10020, 10024

PENITENTIARY

See State Prison.....	12434-12465
Rescues and escapes—See Rescues and Escapes	

GENERAL INDEX.

PENSIONS

Mothers' pension act.....	10480-10486
Of members of militia.....	1376
Payment of, by fire relief associations.....	5132- 5136
Schools teachers'—See Schools, Public.....	1113- 1132

PEOPLE

Title of what property is in.....	27
When sovereignty of state resides in.....	19
Who compose.....	31

PER DIEM

See Fees—See also Salaries	
When forbidden to public officer.	4936

PEREMPTORY CHALLENGES

Number of	
in civil cases, district court...	9343
in civil cases, justice court....	9678
in criminal cases, district court.	11955
in criminal cases, justice court.	12317

PERFORMANCE

See Obligations...7405, 7406, 7424-	7455
See Specific Performance....	8714- 8725
Contracts, time of.....	7548
Exonerates surety, when.....	8200
How pleaded.....	9170
Liability of guarantor of.....	8182
Of acts falling on holidays.....	12

PERISHABLE PROPERTY

Carrier may sell, when.....	7874
Depository may sell, when and how.....	7652
How sold on execution.....	9432
May be sold by special administrator.....	10111
Sale	
by administrator.....	10200
under attachment.....	9270
Stay on appeal.....	9742

PERJURY

By witnesses before public service commission.....	3902
Defined.....	10878
Depositions and certificates, when deemed complete.....	10886
Fact of, how proved.....	10505, 10608
False	
oaths with reference to	
absent voters' law.....	732
bounties.....	3416
swearing before fire marshal constitutes.....	2749
testimony	
before legislature, penalty...	10881, 10882
by officers of insurance companies.....	166
Incompetency of witnesses no defense.....	10884
Irregularity in administering oath no defense.....	10883
Knowledge of materiality of testimony not necessary.....	10885
Oath defined.....	10879, 10880

PERJURY (Continued)

Penalty for	
false oath by officer.....	4906
procuring execution of innocent person by.....	10890
Pleading in information, when sufficient.....	11859
Punishment.....	10888
Statement of untruth not known, effect of.....	10887
Subornation defined.....	10889
Testimony of witness to be read against him, when.....	10720
Violation of corrupt practices act, who deemed guilty of.....	10820

PERMANENT FUNDS

Investment in farm loans—See State Lands.....	1928- 1948
Of state educational institutions.	1922
biennial statement of.....	1926
disbursement of.....	1923
how invested.....	1910a
quarterly statement of expenses	1925
what funds used first.....	1924

PERPETUATION OF TESTIMONY

Application for order, how made.	10687
Appointee authorized to take....	10688
Deposition	
effective as oral testimony.....	10692
how taken.....	10689
prima facie evidence.....	10690
Evidence may be produced, when	10691
How effected.....	10686

PERPETUITIES

Rule against.....	6705, 6706
-------------------	------------

PERSON

Indecent exposure of.....	11136
Term includes corporations.....	10713
Word construed under corrupt practices act.....	10775
Word includes what.....	16

PERSONAL INJURIES

See Negligence	
Liability of railroads for....	6605- 6608
Release of liability for unlawful.	11402

PERSONAL PROPERTY

See main title Property, subtitle personal property, for main treatment of subject	
Attachment, when covered by conditional sales agreement....	9291
Claim and delivery, action for—See Claim and Delivery..	9220- 9239
Contracts for purchase or sale, when valid.....	7591
manufacturing contracts, when excepted.....	7592
Damages for	
breach of agreements concerning—See Damages.....	8674- 8683
conversion of.....	8689, 8690
lienor for conversion.....	8691
Defined.....	1996, 6672, 10713
in tax law.....	1996

GENERAL INDEX.

PERSONAL PROPERTY (Continued)

Delivery on execution sale...	9439, 9440
Fraudulent sales.....	11432
Hiring of—See Hiring.....	7751- 7755
How	
attached	9262
sold on attachment.....	9271
sold on execution.....	9432- 9434
to levy execution on.....	9417
Includes what.....	16
Law governing.....	6803
Lien of	
persons performing service on—	
See Agister.....	8383- 8386
seller	8381
Of deceased persons, how sold...	
.....	10200-10204
Possession of executors and administrators	10138
Receiver, when title vests in, on proceedings supplementary..	
.....	9465, 9466
Recovery of, time for commencing action	9033
Removal of mortgaged.....	11416
Sale of	
See Sales.....	7581- 7631
mortgaged	11416
Specific relief for possession of—	
See Specific Relief.....	8712, 8713
Tax upon, lien on realty.....	2153
When mortgaged, execution.....	9425

PERSONAL RELATIONS

Marriage	5695
Protection of.....	5693
Rights forbid what.....	5693

PERSONAL RIGHTS

General, defined.....	5688
Protection of, assured.....	5688

PERSONATION

Of peace officers forbidden..	10926, 10927
Of voters forbidden, punishment.	10795

PERSONATION, FALSE

See False Personation.....	11406-11409
----------------------------	-------------

PERSONS

Adults	5673
Civil liability of minors.....	5686
Includes corporations.....	16
May be witnesses, when....	10534-10537
Minors	5673
Of unsound mind	
appointment of guardian for..	
.....	5875, 5876
cannot contract.....	7469
cannot disaffirm contract, when defined	5681
rescission by.....	5676
.....	5684
Powers of persons of adjudged incapacity	5685
certificate from physician in insane asylum	5685
Rights of.....	5688
Rights of state over.....	26

PERSONS (Continued)

Right to protection.....	34
Unborn children.....	5675
When capable of crime.....	10729
Who are not citizens.....	37
Who liable to punishment.....	10730
Without understanding, liability of	5683

PERSONS OF UNSOUND MIND

Right to use force to control....	10980
Who are.....	10727

PESTHOUSE

Within city limits forbidden....	11234
----------------------------------	-------

PETIT JURY—See Juries

PETIT LARCENY

See Larceny.....	11372-11374
Jurisdiction of justice courts....	8842

PETIT TREASON

Abolished	10958
-----------------	-------

PETROLEUM

See Oil and Gas	
License tax on producers—See Taxation	2397- 2408

PHARMACY

See also Opium and Opiates	
See also Pure Food and Drug Act	2578- 2596
Adulteration of drugs forbidden.	3184
Assistant pharmacist	
defined	3172
fees of.....	3172
Certificate of registration.....	3171
contents and display of.....	3178
fees for.....	3171
Compounding of drugs, to whom forbidden	3181
Fees for	
reciprocity	3171
registration and examination..	3171
Official preparations must be carried and used.....	3182
Opiates, sale of, regulated—See Opium and Opiates....	3186- 3202
Opium, regulation of sale—See Opium	3189- 3202
Patent medicines, regulation of sale	3181
Penalty for violation of act.....	3179
concerning opiates.....	3188
Pharmacy, state board of	
appointment and term.....	3173
by-laws, power to make.....	3174
certificates	
contents and display of.....	3178
to be granted.....	3176
examinations	
by	3176
of applicants.....	3174
officers and organization.....	3174
powers of board.....	3174
registration, fee for.....	3176
annual renewal of.....	3177
salaries and expenses.....	3175

GENERAL INDEX.

PHARMACY (Continued)

Pharmacy, state board of (continued)	
secretary, appointment and duties	3174
vacancies	3173
Poisons, sale of, regulated	3185
Registered pharmacists defined...	3171
Registration	
application and fee for.....	3176
fees for.....	3171, 3183
renewal of.....	3177
without examination, when....	3183
Wrongful	
compounding and sale of drugs	3181
exhibition of certificate, penalty for	3180

PHARMACY, STATE BOARD OF

See Pharmacy.....	3173- 3180
-------------------	------------

PHEASANT

Certain counties closed until 1923	3701
Killing forbidden.....	3700
Open season for.....	3701

PHILLIPS COUNTY

Boundaries and county seat.....	4338
---------------------------------	------

PHRASES—See Words and Phrases

PHYSICIANS AND SURGEONS

See also Health	
See also Medicine.....	3116- 3124
Acts while intoxicated, punishment for.....	11193
Admission and regulation of practice—See Medicine.....	3116- 3124
Contract for attending county poor	4527
Duty to report contagious diseases	2479
Examination of insane persons by	1433- 1441
Exempt from jury service.....	8893
Exemptions	9428
May be summoned to inquest....	12383
Opium	
record to be kept.....	3192
regulation of use.....	3192
Permits for use of intoxicating liquor—See Intoxicating Liquors	11048-11133
Privileged communications to....	10536
Registration of births and deaths by—See Vital Statistics.....	2515- 2539
Revocation of license, when drug addict	3199
reissuance of, when.....	3199

PICTURES

Injuring and mutilating.....	11498
Moving pictures of crimes forbidden	11567
Publishing of obscene.....	11135

PIONEER DAY

See Schools, Public.....	1063- 1067
School not to be dismissed on....	1062

PIPE LINES

Breaking or obstructing, punishment	11499
Labor and materialmen's lien on —See Liens	8375- 8377
Regulation of, by railroad commission—See Common Carrier Pipe Lines.....	3848- 3858

PISTOLS

See also Weapons	
Magistrates to destroy.....	11312
Mayors to enforce act.....	11313
Sale of toy pistols, caps, etc., prohibited	11310
seizure as public nuisance.....	11311

PLACE

Law of, when governs.....	7537
Of	
delivery of thing sold.....	7601
payment, omissions from negotiable instrument.....	8413
performance	7437

PLACE OF TRIAL

See Actions, subtitle venue..	9093, 9104
See Jurisdiction	
Change of—See Change of Venue	11916-11927

PLAINTIFF

Actions on commercial paper....	9084
Adverse claim, costs.....	9489
Allowance of costs.....	9787
Definition	9009
In contest of probate of will....	10032
In special proceedings.....	9834
May order discharge of debtor from prison, effect.....	9885
Pleadings allowed to.....	9127
Real actions, when he cannot recover costs.....	9489
When deemed defendant.....	9312
Who may be joined as.....	9077

PLANT DISEASES

See Agriculture, Labor and Industry, Department of....	3603- 3633
Governor may quarantine against	3631, 3632

PLATS

Cities and towns—See Cities and Towns	4980- 4994
Townsites, penalty for violating law	4994

PLAYGROUNDS

See Cities and Towns	
----------------------	--

PLEA

A pleading of defendant.....	11896
Defendant entitled to two days for preparation.....	11935
Effect of conviction or acquittal for higher offense.....	11914
Former acquittal	
form of.....	11908
what constitutes.....	11913
what is not.....	11912

GENERAL INDEX.

PLEA (Continued)

Former conviction	
form of.....	11908
or acquittal, form of verdict..	12020
Kinds of.....	11907
Not guilty to be entered, when..	11915
Of guilty, how put in.....	11909
Of not guilty, puts in issue what.	11910
What may be given in evidence	
under "not guilty".....	11911
When put in.....	11897

PLEADINGS

See also Complaint, Indictment, Information, Demurrer, Plea	
Account	
delivery of copy to adverse	
party	9167
how pleaded.....	9167
Actions	
for collection of delinquent	
taxes	2254
to recover money lost at gam-	
bling	11175, 11176
to review orders of railroad	
commissioners	3803
Affidavits defectively entitled,	
when valid.....	11873
Allegations upon information and	
belief, how construed.....	9179
Allegations, when taken as true..	9178
Amended complaint, copy to be	
filed	9134
Amendment on trial in criminal	
actions, when.....	11870
Amendments	
how and when allowed by court	9187
of course, when allowed.....	9186
time for answer or demurrer...	9186
upon decision to demurrer, when	
allowed	9189
division of action in discre-	
tion of court, when.....	9189
Answer	
admitting part of plaintiff's	
claim, effect.....	9149
contents	9137
controversy between defendants	9177
may	
allege what, in libel and slan-	
der suits.....	9176
contain all defenses or coun-	
terclaims	9146
By corporation, contents of.....	9163
By state, directness and certainty	11845
Complaint	
contents	9129
cross-complaint, when and how	
allowed	9151
joinder of causes.....	9130
justice court.....	9640
libel and slander.....	9175
objection to, by answer.....	9135
when objections waived.....	9136

PLEADINGS (Continued)

Complaint in criminal actions in	
justices' or police courts....	12302
Conditions precedent, how pleaded	9170
Construction of words and phrases	
in criminal actions....	11850, 11851
Construed, how.....	9164
Controversy between defendants,	
answer	9177
Copy of	
instrument for payment of	
money	9171
written instrument, effect of...	9172
Counterclaim	
admission of, judgment for ex-	
cess	9150
affirmative relief, demand for..	
.	9141- 9148
by executors, etc., essentials...	
.	9142, 9143
defined	9138
demurrer to.....	9156, 9157
denial on information and be-	
lief	9179
failure of defendant to set up,	
effect	9144
judgment on.....	9140
legal or equitable, may be joined	9146
libel and slander.....	9176
new matter deemed contro-	
verted, when.....	9178
not barred by death or assign-	
ment	9145
objection to complaint by, when	9178
partial defenses may be set up	9147
rules governing.....	9139
separately numbered and stated,	
when	9146
Court may	
enlarge time for, when.....	9187
order amendment, when.....	9183
Cross-complaint, when and how	
allowed	9151
Defendant desiring judgment	
must demand it, when.....	9177
Defenses, partial may be set up...	9147
Defined	9125
Demurrer in criminal actions—	
See Demurrer.....	11896-11906
Demurrer to answer	
counterclaim, grounds of demur-	
rer to.....	9156
grounds of demurrer.....	9153
on ground of insufficiency.....	9155
sustained, amendments, when..	9189
time within which.....	9152
to whole answer or separate de-	
fense	9154
Demurrer to complaint	
defendant may, when.....	9131
must specify grounds.....	9132
objections	
by answer, when.....	9135
when deemed waived.....	9136
proceedings when complaint	
amended	9134

GENERAL INDEX.

PLEADINGS (Continued)

Demurrer to complaint (continued)	
to	
counterclaim	9155, 9156
new matter	9155
specify grounds	9157
whole or part of complaint . .	9154
Enumeration of	9127
Errors and defects to be disregarded, when	9191
Errors or mistakes immaterial in criminal cases	11874
Extension of time for filing . .	9187, 9823
Fictitious names, use of, when allowed	9190
First pleading of state	11842
Forgery, where instrument destroyed or withheld	11858
Form of, in criminal cases how determined	11841
Form, where prescribed	9126
F frivolous pleadings, how disposed of	9165
Immaterial variance, duty of court	9184
In justice courts—See Justice Courts	9638-9651
In proceedings against joint debtors	9766
Indictment and information	
allegations as to partnership property when sufficient	11869
construction of words used . .	11850
contents of	11843
defects not affecting substantial rights, effect of	11853
different counts may be used .	11847
effect of erroneous statement as to person injured	11849
embezzlement, pleading, when sufficient	11860
fictitious name, procedure on use of	11846
forgery, misdescription in instrument immaterial, when . .	11858
form of	11844
judgment, how pleaded	11855
larceny pleading, when sufficient	11860
libel, how pleaded	11857
must be direct and certain . .	11845
must charge but one offense . .	11847
obscenity, pleading, when sufficient	11861
perjury, pleading, when sufficient	11859
presumptions not to be stated	11854
private statutes, how pleaded .	11856
time of commission of offense, how stated	11848
when sufficient	11852
words used in statute not to be strictly followed	11851
Information and belief, allegations, how construed	9179
Initials, use of, when allowed . .	9190
Insertion of copy of written instruments, effect of	9172

PLEADINGS (Continued)

Instruments for payment of money, how pleaded	9171
Irrelevant matter, how stricken out	9166
Judgments, how pleaded	9169
Judgments in criminal actions . .	11855
Larceny or embezzlement	11860
Libel and slander	
answer may allege what	9176
how pleaded	9175
Libel criminal actions	11857
Liberal construction required . .	9164
Lost papers, how supplied	9817
Maintaining nuisance in violation of intoxicating liquor laws—See Intoxicating Liquors	11066-11070
Material allegation	
defined	9180
not denied, deemed true	9178
Must be subscribed, how	9162
Of defendant	11896
on arraignment	11890
On disallowance of demurrer, defendant must plead	11905
Papers without title valid, when .	9818
Partial defenses	9147
Partnership property	11869
Performance of conditions, how pleaded	9170
Perjury or subornation	11859
Presumptions of law need not be stated	11854
Private statutes, how pleaded . . .	9174
Private statutes in criminal actions	11856
Real property, how described . . .	9168
Reply—See Reply	9158-9161
contents	9158, 9159
defenses, separately stated . .	9159
demurrer to	9161
failure, effect	9160
failure to demur	9160
new matter	9158
Rules of, which govern	11841
Sham pleadings, how stricken out	9166
Statute of limitation, how pleaded	9173
Sufficiency, how determined . . .	9126
Supplemental	
to complaint, filing and service when allowed	9182, 9181
Time for answer after demurrer, how computed	9192
Variance and amendments	
amendments	
as of course	9186
by court	9187
demurrer sustained, amendments, when	9189
errors or defects, must be material	9191
fictitious names, when permissible	9190
misjoinder of causes of action, how cured	9189
of answer, of sureties, in claim and delivery	9188

GENERAL INDEX.

PLEADINGS (Continued)

Variance and amendments (continued)	
variance	
amendment upon terms, when	9183
amendment without costs, when	9184
when failure of proof	9185
when immaterial	9184
Verification	
for corporations, how made	9163
mode of	9163
subscribed by whom	9162
What pleadings are allowed	9127
Written instruments, effect of copy	9172

PLEGDED PROPERTY

How attached	9292, 9425
------------------------	------------

PLEDGES

See also Pawnbrokers	11184-11187
Contract deemed pledge, when . .	8293
Defined	8292
Delivery essential to validity . . .	8294
For obligations to third persons . .	8298
Foreclosure by pledgee, when . . .	8317
Gratuitous pledge-holder, duties of	8304
Increase pledged	8295
Lienor may pledge, how	8296
Misrepresentation by debtor, effect of	8305
Notice of sale, waiver of	8309
Pledgee and pledge-holder, obligations of	8303
Pledgee cannot purchase pledged property	8316
may foreclose right of redemption	8317
may retain, when	8315
may sell, when	8306
sale of securities, when	8312
to demand performance, when . .	8307
to give notice of sale	8308
Pledge-holder defined	8299
enforcement of rights	8302
obligations of	8301
Pledge-lender defined	8298
may withdraw property, when	8300
Property stored in warehouse . . .	11463
Real owner cannot defeat apparent owner, when	8297
Sale on demand of pledgor	8313
Sale to be by auction	8311
Surplus, to whom paid	8314
Waiver of demand	8310

PLUMBERS

Regulation in cities—See Cities and Towns	5183- 5193
---	------------

PLURAL NUMBER

Includes singular	16
-----------------------------	----

POISON

Of insect pests—See Insect Pests	4501- 4505
Regulations of sale	3185
by cities and towns	5039

POISON (Continued)

Sale of Paris green, lead arsenate and fungicides regulated .2600- 2614
Use of, in taking fish prohibited 3717

POISONING

See also Homicide

Animals, punishment for...	11512-11515
Assaults by means of poison.	10976, 10977
Food or water, punishment for..	11194

POLE AND PERCH

Yards in	4215
--------------------	------

POLICE

Breaking into buildings where games played	11168
Duty as to gambling	11169
Execution of justice's judgment	12326
Intervention to prevent crime . . .	11635
Officers	
peace officers	11620
persons aiding in prevention of crime	11636
preventing crime	11635, 11636
Organization and regulation	11653
Preserving peace at public meetings	11654
Protection of gambling a felony . .	11172
Receipt for money, etc., taken from prisoner	12245
Record of money, etc., taken from prisoner	12246
Record of stolen property kept by	12246
Warrant of arrest, execution by	11735-11737

POLICE COURTS

See Cities and Towns	5087-5094
See Justices' and Police Courts	12302-12347
Appeals from, how taken—See Appeals	9754- 9761
Civil actions	
defendant to plead, how	9727
how commenced	9725
juries	
how formed and impaneled	8925, 8926
how summoned	8913, 8914
jurisdiction	8843
proceedings, how conducted . . .	9728
summons to issue	9726
How established and governed . . .	8843
Judges are magistrates	11619
Powers	8843

POLICE DEPARTMENT

See Cities and Towns	5095- 5108
--------------------------------	------------

POLICE JUDGES

See Cities and Towns	
Disposal of unsanitary food by..	2586
Salaries	5020

POLICE POWER

Code sections governing	364
-----------------------------------	-----

GENERAL INDEX.

POLICEMEN

- Actions to recover salaries, time
for commencement.....9036, 9037
- Must summon jury for inquest... 8916
- See Cities and Towns.....5095- 5108

POLICIES

- Abstracters of life insurance—
See Abstracters of Life In-
surance Policies.....170- 173
- Net value of life insurance, poli-
cies, state auditor to ascertain 6261
- Of insurance—See Insurance.8106- 8120
- Presenting false proof of loss upon 11427

POLITICAL AGENT

- Terms construed..... 10775

POLITICAL CODE

- See also Construction
- Construction of.....4, 5
- Divisions of..... 1
- Effect on
 - existing actions and rights.... 8
 - existing statutes..... 5
 - running of limitations..... 9
 - tenure of office.....6, 7
- Effective, when..... 2
- Not retroactive..... 3
- Retroactive, when..... 3
- Tenure of office preserved..... 6

POLITICAL COMMITTEE

- See Corrupt Practices Act..10773-10818

POLITICAL CONTRIBUTIONS

- Life insurance companies prohi-
bited 6285
- When prohibited....10785, 10789, 10790

POLITICAL CRIMINAL LIBEL

- Defined 10800

POLITICAL MEETINGS

- Penalty for disturbing..... 10765

POLL-BOOK

- Clerk to forward to judges..... 599
- Compensation of county clerk... 571
- County commissioners to furnish 598
- Form of..... 600
- Omission of name from, procedure 579
- Preparation of..... 568
- Want of form not to vitiate.... 601

POLLING

- Jury on return of verdict..... 9358
- Of jury, how and when..... 12032

POLL-TAX

- See Taxation.....2273- 2295
- Age for..... 2273
- In special road districts..... 1663
- Persons not heads of families,
amount of..... 2273
- Possessing unauthorized blank re-
ceipts 11326
- Proceeds paid to poor fund..... 2295
- Road, in cities and towns..5219- 5223
- Use of unauthorized receipts.... 11325

POLLUTION

- Streams by refuse from sawmills 3718
- Water and streets by dead bodies
forbidden . . .1739, 2484, 2649, 11235

POLYGAMY

- Marriage void, when..... 5705

PONDERA COUNTY

- Boundaries and county seat..... 4339

PONDS

- Artificial, regulations of fishing
in 3695

POOL-HALLS

- Certain games forbidden..... 11188
- punishment for playing..... 11189
- Closing hour for..... 11190
- Minors not to frequent..... 11191
- Penalty for admitting minors.... 11191
- Punishment 11192

POOLING

- See Restraint of Trade....10912, 10913

POOLS

- By public warehouses forbidden. 10912
- penalty for violation of act... 10913

POOR

- Application for relief, evidence
required 4531
- Auditor, county, supervision of.. 4833
- Board of charities and reform to
investigate houses for, etc.... 330
- Bond of contractor..... 4529
- Burial of deceased soldiers and
sailors—See Soldiers and Sail-
ors 4536- 4541
- Contracts
 - advertisement of notice..... 4525
 - letting by commissioners..... 4525
- County commissioners to control. 4521
- Imprisonment paupers for fines
and costs.....12071, 12072
- debtor's oath, form of..... 9880
- Intemperate persons
 - who entitled to relief..... 4524
 - when not entitled to support... 4523
- Medicine and medical attendance,
contract for..... 4527
- Persons may sue without costs... 9809
- Physicians to give notice concern-
ing 4529
- Poor farm, purchase and mainte-
nance of..... 4534
- Poor fund, surplus moneys in.... 4535
- Proposals for care and feeding of
. 4525, 4526
- Rejection of bids..... 4528
- Relatives, duty to care for, when 4522
- Removal of persons belonging to
another county..... 4532
- School children
 - clothing and medicine, when
furnished 1015
 - county to aid, when..... 1140
- Sick persons, order to nonresidents 4530
- Superintendent of poor farm..... 4526

GENERAL INDEX.

POOR (Continued)

Temporary relief to nonresidents, when	4533
Work-house, establishment of....	4534

POOR FARM

Authority to purchase.....	4534
----------------------------	------

POOR FUND

Mothers' pension allowance paid from	10483
Proceeds poll-tax paid to.....	2295

POSSE COMITATUS

Power of sheriff.....	11655
Refusal to join.....	10930

POSSESSION

Adverse, by tenant.....	9023
farm lands.....	9020
occupation, under claim of title under claim of title not written	9021 9021, 9022
under instrument.....	9019
when deemed grant.....	9018
Change of, necessary on sale of personalty	8604
Deadly weapon with intent to as- sault	11354
Lien dependent on agisters	8383
attaching officer.....	8391
bankers	8388
factors	8387
master of ship.....	8389
mate and seaman.....	8390
pledge	8294
seller of personalty.....	8381
workmen on personal property	8383
Lien independent of, purchaser of realty	8382
Of burglarious instruments.....	11353
Of counterfeits, felony.....	11364
Of range-stock, when attached...	9297
Of real property, when necessary to maintain action.....	9012- 9025
Presumption from	10606
Recovery, limitations, disabilities	9026
Right of, not affected by descent cast	9025
Writ of, in dower proceeding....	10169

POSSIBILITY

Not subject to transfer.....	6838
------------------------------	------

POST MORTEM

See Coroner's Inquest.....	12381-12393
----------------------------	-------------

POSTERS

Attaching to public property.....	11481
-----------------------------------	-------

POSTHUMOUS CHILDREN

Birth of, defeats future contin- gent estates	6716
Inheritance, deemed living at death of parent.....	7087
when future interest limited to successors	6694
rights of.....	7038
Rights of.....	6694
when omitted from will.....	7008

POSTING

List of state warrants by treas- urer	183
--	-----

POSTPONEMENT

See also Adjournment—See also Continuance

Affidavits for.....	11936
Cause for.....	11937
Court may postpone trial, when..	11937
Dismissal of action, when.....	12223
Effect of failure to apply in time	11939
Examination, course to be pursued by magistrate	11776
Justices' or police courts.....	12314
verbal notice to witnesses suffi- cient, when.....	12315

Of

sale of real property of deced- ents	10230, 10231
trial by justice court, when.....	9667
by consent, when.....	9668
upon application of party, when and on what condi- tions granted.....	9669
deposition of witnesses, when taken	9333
for absence of evidence, pro- cedure	9332
adverse party may admit evidence	9332
On failure of return of commis- sion to take testimony.....	10649
Tax sales.....	2190
Trial for cause.....	11937-11939
notice and affidavit.....	11936-11938
state may have.....	11938
time for application.....	11936

POTATOES

Pounds in bushel.....	4226
-----------------------	------

POUND

Divisions of.....	4218
Failure to feed animals in.....	11510
Weight for sale of food.....	2582

POWDER

See Explosives.....	2786- 2815
---------------------	------------

POWDER RIVER COUNTY

Boundaries and county seat.....	4340
---------------------------------	------

POWDER RIVER PRESERVE

Creation of.....	3767
------------------	------

POWELL COUNTY

Boundaries and county seat.....	4341
---------------------------------	------

POWER LINES

Assessment of—See Taxation....	2021, 2123, 2138- 2146
Safety regulations—See Electrical Construction	2677- 2709

POWERS

Bond elections, only taxpayers to vote in.....	1253
In relation to real property—See Property	6798- 6802

GENERAL INDEX.

- POWERS** (Continued)
 Minor cannot delegate..... 5678
 Of corporations..... 5994
 Of minors to contract..... 5679
 Persons without understanding to contract 5683
 To revoke instrument, effect of reservation of.....6941, 6942
- POWERS OF ATTORNEY**
 By married women, acknowledgment of 6862
 Execution of instrument under.. 6863
 Form of, to execute mortgage.... 8258
 Guardian may execute..... 10453
 How revoked..... 6937
- POWERS OF COURTS**—See Courts
- PRACTICE OF LAW**—See Attorneys-at-Law
- PRAIRIE CHICKEN**
 Certain counties closed until 1923 3701
 Open season for..... 3701
- PRAIRIE COUNTY**
 Boundaries and county seat..... 4342
- PRECINCTS**
 Election—See Elections.....545- 552
- PREDATORY ANIMALS**
 County bounties on—See Bounties2082- 2087
- PREFERENCE**
 Common carriers may give, when. 7849
 not to give..... 7848
 Debtor may give to creditor..... 8601
- PREGNANCY**
 Female, proceedings on execution of judgment of death...12099, 12100
- PREJUDICE**
 Cause for change of venue..... 8868
 Immaterial errors not prejudicial 11874
- PRELIMINARY EXAMINATION**
 See Examination.....11773-11797
 Defendant may waive..... 11797
 Of corporations.....12230-12234
 Search of accused for weapons... 12414
- PREMISES**
 Returning to, after legal eviction. 11301
- PREMIUMS**
 See Insurance.....8131- 8137
 License for giving—See Licenses2430- 2433
- PRESCRIPTION**
 Title by, when deemed acquired.. 9018
 Title conferred by..... 6818
- PRESCRIPTIONS**
 See Druggists
 See Pharmacy.....3170- 3202
- PRESENCE**
 Defendant, when necessary—See Defendant
- PRESENT TENSE**
 Includes future.....16, 10713
- PRESENTMENT**
 Negotiable instruments—See Negotiable Instruments Law... 8477- 8495
- PRESERVES**
 Certain counties designated for elk 3696
 Fish and Game—See Game and Fish
- PRESIDENT OF SENATE**
 Duty to organize senate..... 57
 Fees 75
 Officer of senate..... 62
- PRESIDENTIAL ELECTORS**
 See Elections.....673, 674, 813- 823
- PRESIDENTIAL PREFERENCE PRIMARY**
 See Elections, subtitle presidential preference primary...671- 676
- PRESUMPTION OF INNOCENCE**
 Of defendant..... 11971
- PRESUMPTIONS**
 Adequacy of damages as relief... 8717
 As to
 conveyance of fee simple..... 6866
 damages for breach of contract. 7557
 date of delivery of conveyance 6844
 equitable intent of parties in making contract..... 8727
 fraudulent conveyances..... 8604
 gifts causa mortis..... 6886
 hiring of servants.....7795- 7797
 loss unexplained by depositary 7653
 partnership property..... 7988
 undue influence of trustee.... 7895
 value for conversion of personality8689, 8699
 Assent of director of corporations, when11451, 11452
 Books containing laws presumed correct 10550
 Conclusive
 defined 10605
 guilty intent..... 10605
 issue of wife legitimate, when.. 10605
 judgment or order of court conclusive, when..... 10605
 other presumptions 10605
 title of landlord as against tenant 10605
 truth of facts recited in instrument 10605
 Defendant presumed innocent... 11971
 Defined 10602
 Director's knowledge of corporation's affairs..... 11450
 Disputable, defined..... 10606
 How controverted..... 10604
 In divorce cases.....5763, 5764
 rebuttal 5764

GENERAL INDEX.

PRESUMPTIONS (Continued)

Of	
consideration, by written instrument	7512
in negotiable instrument	8431
contract from retaining benefits	7428
law, pleading in indictment or information unnecessary	11854
legitimacy of children	5831
who may dispute	5832
malice in libel	10991
privileged communications	10997
Renewal of lease from holding over	7745

PRETENSE—See False Pretense

PREVENTIVE RELIEF

Given, how	8709
Granted, how	8736
Regulated, how	8737

PRICE

Definition of	7581
Payment, when to be made	7622
When agent may receive	7955, 7956

PRIESTS

Exempt from jury duty	8893
May solemnize marriage	5710
Privileged communications	10536
What property exempt	9428

PRIMA FACIE EVIDENCE

See also Evidence	
Books, maps, etc	10584
Certificates of purchase or location	10575
Definition of	10498
Entries	
by decedents	10594
by officers or board	10576
in justices' dockets	9704
in official books	10570
Relative to third persons	10512
Stenographers' reports	8935

PRIMARY ELECTIONS

See Elections	631- 670
-------------------------	----------

PRIMARY EVIDENCE

Definition of	10494
-------------------------	-------

PRIMARY MEETINGS

See Elections	612- 630
-------------------------	----------

PRINCIPAL

Acceptance waives interest	8665
Certain distinction between principal and accessories abolished	11863
Defined	10732
Effect of payment as new promise	9062
Incident passes by transfer of	6857
Jurisdiction of actions against, when not present	11718
Landlord letting building for gambling	11177
Name to be subscribed by attorney in fact	6863
When bound by a record with sureties	10562

PRINCIPAL AND AGENT

See Agency	7928- 7980
----------------------	------------

PRINCIPAL AND SURETY

See Suretyship	8195- 8209
--------------------------	------------

PRINCIPAL OF COUNTY HIGH SCHOOLS

Consolidation in certain districts—See Schools, Public	1294- 1301
--	------------

PRINTING

County, regulation of	4482
Duties state purchasing agent concerning	293
School laws	938
Secretary of state to print election laws	807
State	
codes excepted	283
cuts, how computed	283
folios, how placed	281
legislative printing excepted	283
rate per folio	276
rule and figure work unlawful, when	282
short pages, how computed	282
size of type	281
tabular matter	281
title pages, how computed	283
to what publications applicable	283
union label on	260
penalty for omission	261
State publications	
basis of measurement	277
legal maximum rates	276
lesser rates not prohibited	278
penalty for violation of act	280
publishers' affidavit	
contents of	279
to accompany claims	279
rule and figure work	276
supervision by state purchasing agent	293

PRIOR CONVICTION

Bar when—See Bar	
Jury to find on charge of	12023

PRYOR MOUNTAIN PRESERVE

Creation of	3762
-----------------------	------

PRIORITY

Dependent upon record	6935
Of	
liens	8235
mortgages for purchase price of real estate	8236
water rights	7098
Wages—See Wages	

PRISON

See also Prison-made Goods	11572, 11573
County jails—See Jails	12466-12487
Grand jury	
to have access to	11828
to inquire into conditions	11829
State prison—See State Prison	12434-12465

GENERAL INDEX.

PRISON COMMISSIONERS, STATE BOARD OF

- See State Prison:.....12434-12465
- Application for parole, how considered..... 12266
- Composition..... 117
- Paroled prisoners still in legal custody..... 12265
- Paroles, powers to grant..... 12264
- Powers concerning suspended sentence—See Sentence...12078-12084

PRISON GUARDS

- Hours of labor for..... 12441
- penalty for violation of act.... 12442

PRISONERS

- See also Arrest
- See also Convicts
- See also Jails.....12466-12487
- See also State Prison
- See Imprisonment.....9875- 9886
- Application for parole, how considered..... 12266
- Attendance at court, how procured..... 12432
- Delay in taking, before magistrate 10920
- Discharge of pauper prisoner, when..... 12071
- Diseased, removal of..... 2482
- order of..... 2483
- Escapes
 - See Rescues and Escapes..10864-10872
 - from jails..... 10868
 - state prison..... 10866
- Examination and treatment for venereal diseases..... 2569
- Fees of sheriff for board of..... 4886
- How produced as witnesses..... 10628-10630, 12186
- Inhumanity to..... 10922
- Inquest in case of death....4848- 4857
- Pardon of—See Pardons....12247-12266
- Paroled, how.....12264-12266
- Paroled prisoners still in legal custody..... 12265
- Persons assisting escapes...10870, 10871
- Poor, payment of fines and costs, how..... 12071
- Practice of third degree methods upon, forbidden.....10923, 10924
- Procedure to bring before court of another county..... 12432
- Rates for transportation, how fixed..... 3821
- Rescue of..... 10864
- Right of attorney to consult.... 8990
- Third degree methods, use prohibited.....10923, 10924
- Unauthorized communication with 10949

PRISON-MADE GOODS

- To be marked when offered for sale..... 11572
- punishment for violation..... 11573

PRIVATE

- Sittings of courts to be, when... 8848

PRIVATE BANKS

- See Banks and Banking.....6095- 6107
- Taxation of..... 2067

PRIVATE CORPORATIONS

- See Corporations.....5900- 6012
- Defined..... 5901
- How formed..... 5902
- Purposes for which organized.... 5903

PRIVATE NUISANCE

- Defined..... 8644

PRIVATE PERSONS

- Arrest by, when.....11754, 11755
- Duty when making arrest...11764-11766

PRIVATE ROADS

- See Eminent Domain.....9955- 9958
- How established..... 1765

PRIVATE SECRETARY TO GOVERNOR

- Appointment..... 120
- Duties..... 121
- Salary..... 438

PRIVATE STATUTES

- Defined..... 10548
- How pleaded.....9174, 11856
- Recitals in, conclusive between whom..... 10553

PRIVATE WRITINGS

- See Evidence
- Ownership, in whom vested..... 6811
- Publication against will of writer. 6811

PRIVILEGE OF WITNESSES

- See Witnesses

PRIVILEGED COMMUNICATIONS

- Defined..... 5692
- What constitutes..... 10536
- What constitutes in libel suits.. 10995-10997

PRIZE-FIGHTS

- See also County Athletic Commission
- Jurisdiction of actions..... 11721
- Leaving state to engage in..... 11295
- Promoting, forbidden..... 11293
- Spectators guilty of misdemeanor. 11294

PROBABLE CAUSE

- Arrest without, discharge on habeas corpus..... 12362
- Certificate of, stay..... 12113
- Search-warrant to issue upon.... 12396

PROBATE PROCEEDINGS

- This title embraces all probate procedure law, including executors and administrators, proof and contest of wills and inheritance tax.
- Absent owners
 - appointment agent for..... 10346
 - appointment attorney for, by court..... 10370

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Accounting and settlement—See subtitle settlement	10288-10306
Accounts, settlement conclusive, when	10303
Actions	
against executors, etc., for waste	10260
concerning real estate, who may maintain	10138
for waste and conversion, etc.	10259
on bond of executors, etc.	10262
to determine heirship—See subtitle heirship.	10324-10326
to recover property fraudulently dispossessed	10265-10267
Administrators	
See subtitle executors and administrators	
with will annexed, authority of.	10063
letters, how issued.	10063
Advancements, how determined.	10345
Affidavits, when admissible as evidence	10082
Agent for absentees, appointment of—See subtitle final settlement and distribution.	10346-10351
Appeals	
procedure applicable.	10366
to supreme court from judgments and orders.	9731
when taken.	10367
Appraisement—See subtitle inventory and appraisement.	10129-10139
Attorneys	
fees, when allowed.	10285
for minors and absentees, when appointed	10370
Bonds	
additional security, when and how required.	10094
additional, when required.	10089
approval of.	10093
citation by judge on deficient bond	10094
conditions of.	10090
cost of procuring, how paid.	10106
executors and administrators act as undertaking on appeal.	9743
failure of sufficient security, effect of.	10095
form of	10088
judge to require further security, when.	10102
justification of sureties.	10093
may be dispensed with, when.	10096
neglect to give new sureties forfeits letters.	10105
on sale of real estate, when dispensed with.	10089
penalty of.	10088
petition for further bonds by whom presented.	10097
citation to show cause, issuance and service.	10098
further security may be ordered	10099

PROBATE PROCEEDINGS (Continued)

Bonds (continued)	
petition for further bonds (continued)	
neglect to obey orders, effect of	10100
powers of executors may be suspended	10101
record of.	10087
release of former sureties on approval of new.	10104
release of sureties, procedure for	10103
separate bonds, when required.	10091
several recoveries on, when had	10092
Borrowing money to pay debts, procedure	10196
Certified copy orders to be filed, when	10371
Citation for embezzlement or disposal of estate, procedure.	10141
disclosure, how compelled.	10142
liability for double damages.	10142
penalty for refusal to obey.	10142
Citations	
how issued.	10360
how served.	10361
personal notice given by.	10362
style of.	10359
to person entrusted with estate, to account.	10143
when served.	10363
Claims against estates	
affidavits to accompany.	10174
allowance in part, endorsement of	10184
effect on recovery of costs.	10184
allowance or rejection, how made	10176
approved claims to be filed.	10177
clerk to register claims.	10177
copy of instrument to accompany	10177
disputed or contingent claims.	10312
doubtful claims, reference on agreement	10188
effect of.	10188
trial by referee, confirmation and effect.	10189
duty to return statement of.	10193
effect of judgment for.	10185
execution before death, effect of executor or administrator	10186
may present claim to judge.	10191
action thereon.	10191
not to purchase.	10286
how paid.	10152
interest, amount allowed.	10174, 10194
judge may	
hear evidence.	10179
present claim when, action thereon	10175
judgment	
for claim, effect of.	10185
not lien against real property, when.	10187
to be presented.	10186

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Claims against estates (continued)	
liability of executors, etc., for costs	10190
liens may be described	10177
lost claims, how presented	10177
mortgage foreclosures not limited	10173
must be sworn to	10174
not to be allowed when barred by statute of limitations	10179
notice to creditors	
copy and proof of, to be filed	10172
decree showing notice to be entered	10172
effect of failure to give	10192
on summary administration	10149
penalty for failure to give	10192
time expressed in notice	10171
when and how published	10171
on action pending at time of decease, presentation of	10183
order in which estate chargeable on	10195
part payment of claim, when made	10194
partial allowance of	10184
presentation	
how evidenced	10176
on sale of real estate	10214
required	10180
exceptions	10180
pending suits not affected	10181
to executor and judge	10176
when excused	10173
publication of notice	10170
rate of interest allowed on	10174
rejected claims	
suit brought, when	10178
when barred not to be allowed	10179
removal of executor for failure to give notice to creditors	10192
statement of	
amount to be returned, when	10193
by executors	10193
time for presentation	10173
exception in certain cases	10173
time of vacancy in administration excepted	10182
vouchers to accompany	10174
when	
barred	10178, 10179
founded on lost instrument	10177
not affected by limitations	10241
Clerk of court, power to	
enter orders	10376
make orders	10376
Compensation	
of attorneys, how fixed	9786
of executors and administrators	10285-10287
Compounding with debtors, when authorized	10264

PROBATE PROCEEDINGS (Continued)

Confirmation of sales	10227
Contempt, removal executor, etc., for, when	10373
Contesting wills—See subtitle Wills	
Contract for purchase of lands, sale of—See subtitle sale of property	10237-10240
Conveyance of real estate	
contracts for sale, how completed	10268
court to order conveyance, when and how	10271
dismissal of petition without prejudice, when	10273
effect of conveyance	10274
effect of recording copy order	10275, 10276
execution and record of conveyance	10272
interested parties may contest	10270
order may direct surrender of possession to whom	10278
procedure when party entitled to conveyance is dead	10277
record of conveyance as evidence	10280
validation of certain curative deeds	10279
Costs	
by whom paid	10372
how recovered	10368
liability of execution, etc., for	10190
of procuring bonds, how paid	10106
Court	
may dispense with regular proceedings, when	10149
to appoint attorneys for minors and absentees, when	10370
Creditors' claims—See subtitle claims against estate	10170-10194
Debts—See subtitle payment of debts	10307-10317
estate, how resorted to for payment of	7052, 7053
Description of real estate, when sufficient	10364
Disclosure of property, procedure for	10140-10143
Disqualification of judges in what case, procedure	10120-10123
Distribution	
See subtitle final settlement and distribution	
summary administration of estates, when	10149
Dower	
assignment to widow, when	10158
commissioners to be appointed to set off	10164
oath, form of	10164
duties and reports	10165
court to try contested claims	10161
guardians to be appointed for minors	10162

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

- Dower (continued)
 - damages for withholding, recoverable, when..... 10168
 - interests may be appraised by jury, when..... 10166
- judgment
 - for widow to be entered..... 10163
 - for yearly value or gross sum 10167
 - minor to appear by guardian.. 10162
 - widow may sue for, if not set off..... 10159
 - procedure..... 10160
 - writ of possession issued, when 10169
- Embezzlement or concealment of property, procedure to recover.....10140-10143
- Estates
 - chargeable with payment debts 10195
 - in common, partition after distribution—See subtitle partition of undivided estates after distribution.....10334, 10335
 - less than fifteen hundred dollars, how disposed of..... 10149
 - less than three thousand dollars, how administered..... 10149
- Evidence of letters, what constitutes..... 10067
- Execution on judgment not to issue after death..... 10186
- when issued..... 10368
- Executors and administrators
 - See also subtitle letters of administration and letters testamentary
 - accounting and settlement by—
—See subtitle settlement.....
.....10288-10306
 - action
 - against, effect of death of persons out of state..... 9051
 - for possession of estate..... 10138
 - maintained by and against.. 10258
 - on bond of predecessor, when 10262
 - acts
 - of part of valid, when..... 10062
 - valid on revocation of letters 10119
 - administrators
 - application for letters, how made..... 10074
 - hearing, notice, proof and granting of letters...10075-10082
 - married women may act as.. 10073
 - order of persons entitled to appointment..... 10068
 - partner not to act, when..... 10068
 - who may be appointed.10072, 10073
 - with will annexed, authority of..... 10063
 - appeals to supreme court.10366, 10367
 - authority, limit of extraterritorial extent..... 10563
 - authority to mortgage and lease
.....10250-10255

PROBATE PROCEEDINGS (Continued)

- Executors and administrators (continued)
 - bonds of—See subtitle bonds.....10087-10106
 - chargeable with whole of estate..... 10282
 - citation to account—See subtitle settlement.....10289-10293
 - compensation.....10285-10287
 - contempt, removal for..... 10373
 - costs
 - in actions by or against..... 9795
 - liability for, on judgment against..... 10190
 - death or incompetency of, letters, to whom issued..... 10117
 - discharge, when.....10311-10332
 - duty to
 - account on revocation of authority..... 10295
 - delivery real property to heirs, when..... 10139
 - repair fixtures..... 10138
 - take possession of estate..... 10257
 - effect of death or incompetency 10117
 - entitled to possession of estate, when..... 10138
 - executors
 - acts of, part of, void, when.. 10062
 - appointed, when and how....
..... 10056-10063
 - debts to testator to be included in inventory..... 10134
 - forfeit right to letters testamentary, when..... 10023
 - interested parties may object to appointment, how..... 10058
 - letters, when granted to minors and nonresidents.... 10061
 - married woman as executrix.. 10059
 - of an executor, powers of... 10060
 - who incompetent to act..... 10057
 - fees..... 10287
 - allowance of..... 10285
 - final discharge, when entered.. 10332
 - form of letters.....10064-10066
 - investment of moneys of estate 10306
 - joinder of parties in actions by letters—See subtitle letters of administration and letters testamentary
 - liability for
 - claims of estate against..... 10133
 - depreciation of estate..... 10283
 - failure to return inventory.. 10136
 - misconduct on sale of property.....10243, 10244
 - on resignation..... 10118
 - personal, when.....10281, 10313
 - profit or loss on sale of property..... 10283
 - uncollected debts..... 10284
 - whole of estate..... 10282
 - limitations in actions by or against.....9050- 9052

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Executors and administrators	
(continued)	
males preferred	10069
married and unmarried women	
as	10059, 10073
may	
be committed, when	
	10128, 10293, 10294
be sued for waste or trespass	
of decedent	10260
borrow money, when	10196
bring action for concealment	
of property	10140-10143
compound with debtors, when	10264
maintain actions for waste,	
conversion and trespass	10259
mortgage or lease property	10249
present claim to judge	10191
recover property fraudulently	
disposed of, when	10265
require persons to account for	
property	10259
minor may act, when	10061
minutes showing appointment	
as evidence	10067
must	
execute deeds, when	10228
give notice to creditors	10192
take possession of estate	10257
nonresident may act as, when	10061
not	
necessary to join as parties,	
when	10263
to be interested in property	
of estate	10248
to profit or lose by estate	10283
to purchase at sales	10248
to purchase claims against	
estate	10286
oath of	10087
official bondsmen liable on ap-	
peals to supreme court by	9743
acts valid, when appointment	
vacated	9744
personally liable for debts of	
estate, when	10281
pleadings, counterclaims	9142, 9143
relatives of whole blood pre-	
ferred	10069
remaining administrator to con-	
tinue when colleague disquali-	
fied	10116
removal and suspension	
absconders, notice to	10127
failure to give	
bond	10095, 10101-10105
notice to creditors	10192
for	
contempt	10373
neglect of duty	10292-10296
neglect to return inventory	10136
suspension	
answer or demurrer	10126
attendance may be com-	
pelled	10128

PROBATE PROCEEDINGS (Continued)

Executors and administrators	
(continued)	
removal and suspension (con-	
tinued)	
suspension (continued)	
citation to show cause	10125
how made	10124
notice of	10125
when	10124
resignation, court to appoint	
successor	10118
sales of property by—See sub-	
title sale of property	
special administrators	
appointed, when	10107
bond and oath	10110
duties of	10111
letters, when issued	10108
powers cease, when	10112
preference in appointment	10109
to render account	10113
statement of amount of claims,	
duty to return, when	10193
suits by and against, when	
maintained	10258
suspension of—See subtitle sus-	
pension of executors and ad-	
ministrators	10124-10128
time for commencement of cer-	
tain actions by	9052
who incompetent to serve	10057, 10072
Expenses of last sickness, when	
paid	10310
Facts, recital in judgment and	
orders	10355
Failure to set forth jurisdictional	
facts, effect of	10355
Family allowance—See subtitle	
support of family	10144-10150
Fees of executors and adminis-	
trators	10287
Final account	
proceedings on neglect to render	10317
when to be made	10316
Final distribution—See subtitle	
final settlement and distribu-	
tion	
Final settlement and distribution	
agent for absentees	
accounting, contents of	10349
bond and compensation	10347
certificate to issue to claim-	
ant	10351
liability on bond	10350
unclaimed estate, how dis-	
posed of	10348
when appointed	10346
decree	
of final discharge, when	10332
to be made after notice	10330
determination of heirship, pro-	
cedure	10324-10326
discovery of property after	10333
effect of	10333

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Final settlement and distribution (continued)	
distribution	
after one year, proceedings	
on application for.....	10323
on final settlement	
how and to whom made....	10327
order conclusive, when....	10328
order, contents and effect..	10328
when decedent not a resident,	
how made	10329
taxes to be paid before distribution	10331
trustees	
appeals	10354
compensation	10353
settlement of accounts after distribution	10352
when	
estate less than three thousand dollars, summary.....	10149
ordered on settlement of accounts	10300
Foreign wills—See subtitle wills.	
.....	10039-10041
Funeral expenses, when paid.....	10310
Guardian	
removal for contempt, when...	10373
service of papers on.....	10374
Guardianship of minors—See Guardianship of Minors.	10401-10411
Heirs may maintain action for possession of real estate, when	10138
Heirship, proceedings to determine	
appeals, how regulated.....	10325
appearance of parties.	10325
distribution, when to be made.	10327
jurisdiction on proof of service	10324
notice	10324
procedure when estate personal property only	10324
resident heirs may agree concerning rights of nonresidents	10327
settlement of accounts of executor	10327
statement of accounts of executor	10327
trial and judgment.....	10326
who may file petition.....	10324
Homesteads	
appraisers to carve out of original homestead	10153
certified copies of orders to be recorded	10157
costs, to whom chargeable....	10156
majority and minority reports of appraisers	10154
orders affecting, to be recorded	10371
report of appraisers, hearing and confirmation	10155
rights of persons succeeding to title	10156
sale of premises, when made...	10153

PROBATE PROCEEDINGS (Continued)

Homesteads (continued)	
selected homestead set apart to person entitled	10152
setting apart for limited period, when	10148
substituting liens paid by solvent estate	10152
to be set apart for use.....	10145
value of	10152, 10153
vests in survivor for life, when.	10151
widow and children to remain in possession	10144
Inheritance tax—See Inheritance Tax	10377-10400
Interest allowed on claims..	10174, 10194
Inventory and appraisal	
appointment of appraisers.....	10130
appraisal	
not necessary, when.....	10132
of homestead, how	10153-10155
of real property before sale.	10223
appraisers	
compensation of	10130
how appointed	10130
to sign inventory	10135
claims of executors included in inventory	10133
compensation of appraisers....	10130
debts of executor to testator included in inventory.....	10134
inventory	
how prepared	10131
of after-discovered property, how made.....	10137
to account for moneys.....	10132
oath	
of appraisers	10131
to accompany inventory.....	10135
property, how appraised.....	10131
revocation of letters for neglect to return	10136
summary administration on return of inventory, when.....	10149
time for return.....	10129
to include what.....	10129
Inventory of property, first legatee to give to second.....	7059
Issues joined	
court to try, when.....	10369
how tried and disposed of....	10368
Judge	
disqualification of, when.....	10120
may present claim.....	10175
Judgments	
against estate, executor liable for costs	10190
contents and entry.....	10185
not a lien on property, when..	10187
Jurisdiction of court over estates when determined by first application	10018
.....	10019
Jurisdictional facts in judgments and orders	10355

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Jury trial	
judge may order in court.....	10358
when had	10369
Leasing real estate—See subtitle	
mortgaging and leasing real estate	10249-10256
Legacies, payment on giving bond, how	10318-10323
Letters of administration	
affidavits, when admissible as evidence	10082
application for, how made.....	10074
contesting application for, procedure	10077
discretionary with court, when.	10070
disqualification of judge, procedure	10120-10123
entry in minutes as evidence...	10079
evidence of issuance, what constitutes	10067
form of	10066
granted to	
any applicant, when	10080
other than those entitled, when	10082
hearing of application.....	10078
married women may act.....	10073
minor, when entitled to.....	10071
letters, when granted to guardian	10071
notice of application, how given on	10076
foreign wills	10041
lost wills.....	10051
partner disqualified	10068
preference of persons equally entitled to	10069
prior rights of relatives to revoke	10086
proof necessary before granting qualifications for	10081
10072	
revocation	
on proof of will after granting	10114
powers of executor in such case	10115
petition and citation	10084
procedure for	10083-10086
when granted	10075
to any applicant.....	10080
where granted	10018
who may receive.....	10068
Letters of administration with will annexed	
disability of executor, procedure	10061
form of	10065
to minor, when.....	10061
when and how granted.....	10057
Letters testamentary	
evidence of issuance, what constitutes	10067
form of	10064
minor may act, when.....	10061
nonresident may act, when....	10061
objections to issuance.....	10058

PROBATE PROCEEDINGS (Continued)

Letters testamentary (continued)	
to whom granted.....	10056
unmarried woman, effect of marriage	10059
where granted	10018
who competent to act.....	10057
Liability	
of executors, etc., for debts of estate	10281-10284
of persons embezzling estate before granting of letters.....	10140
Liens, sale of land subject to.....	10241, 10242
Life estate, procedure for termination	10375
Lost wills, how proved.....	10049-10051
Mines, how sold—See subtitle	
sales of property.....	10205-10209
Minors	
appointment of attorney for by court	10370
when entitled to letters testamentary	10061
Money	
how borrowed to pay debts....	10196
how invested pending settlement	10306
Mortgages, sale of property subject to.....	10241, 10242
Mortgaging and leasing real estate	
authority to mortgage, how obtained	10250-10255
copy of order to be recorded..	10254
deficiency judgment on foreclosure, when	10255
effect of mortgage	10255
execution and delivery of note and mortgage	10254
foreclosure of mortgage, conditions governing.....	10173-10180, 10250-10255
hearing on application to mortgage	10253
irregularity not to invalidate..	10256
mortgage	10255
judge may authorize, when and how	10249
jurisdiction of court	10255
mortgage, effect of.....	10255
note, execution and delivery...	10254
order	
contents of	10253
to lease, how obtained.....	10256
effect of lease.....	10256
petition and order to show cause	10256
to show cause	10251
petition and order to show cause	10250-10255
service and publication of order	10252
New trials and appeals, procedure applicable	10366
Nonresident owners, appointment of agents for.....	10346-10351
Notice to creditors	
removal for failure to give....	10192

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Notice to creditors (continued)	
when and how published.....	10149, 10170, 10171
Notices, clerk of court may issue, when	10376
Oath of executors and administrators	10087
Orders	
affecting real property to be recorded	10371
clerk of court may issue, when	10376
contents and entry	10355
may be made at chambers.....	10358
Payment of debts	
all property chargeable.....	10195
bequests subject to.....	10235
claims	
not included in order, how disposed of	10314
not yet due.....	10312
contribution among legatees...	10236
court to order payment, when and how	10311
discharge of executor, when	10311
disputed and contingent claims, how paid	10312
dividend, when ordered.....	10309
executor liable to creditors, when	10313
expenses of last sickness, when paid	10310
final account	
payment acts as, when.....	10311
proceedings on neglect to render	10317
when to be made.....	10316
funeral expenses, when paid...	10310
how paid when provision in will is insufficient	10234
liability of executor after order made	10313
order	
for payment of legacies and distribution, when	10315
of preference	10307
dividend, when ordered....	10309
in case of mortgages.....	10308
when provided for by will, how appropriated	10232
Partial distribution prior to final settlement	
application for distribution, when and how made.....	10323
bonds by legatee.....	10321-10323
distribution after one year, application for, when and how made	10323
notice of application for.....	10319
order to be made, when and how	10321-10323
payment of legacies on giving bond, how	10318
resistance to application, how..	10320
suit on bond for payment, how	10322
who may object	10320

PROBATE PROCEEDINGS (Continued)

Partition of undivided estates after distribution	
commissioners	
appointment not necessary, when	10344
powers and duties	10342
when and how appointed....	10334
effect of heirs parting with interests	10337
estates in	
common, how divided.....	10334
different counties, how divided	10336
notice	
before partition, to whom given	10342
to be given, how.....	10335
obligation of one receiving whole estate	10340
order, when conclusive.....	10345
payment, how and by whom made	10340
procedure, petition and notice	10335
questions of advancements, how determined	10345
report and record of proceedings	10343
report of commissioners, recording	10343
sale of estate, when ordered...	10341
shares set out by metes and bounds	10338
whole estate assigned to one, when and how.....	10339
Partnership interest, how settled by surviving partner.....	10261
accounting by surviving partner, when compelled.....	10261
partner to give bond.....	10261
Penalty for failure to give notice to creditors	10192
Perishable property, how sold....	10200
Personal	
notice, how given.....	10362
property, application for order to sell, when.....	10201
Possession of estate, who entitled to	10138
Powers of executors and administrators generally	10257
Practice rules applicable.....	10363
Probate of wills—See subtitle wills	10020-10031
Proceedings	
before court, how held.....	10358
to determine heirship....	10324-10326
Process, service on guardians....	10374
Proof of will necessary within four years	7058
Property	
how chargeable for payment of debts	10195
sale of—See subtitle sale of property	
Public administrator—See Public Administrators	9990-10017
penalty for violation of duty..	10917

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Publications, how often made....	10356
Real estate	
action for possession of.....	10138
conveyance by executors and administrators—See subtitle conveyance of real estate....	10268-10280
one description sufficient.....	10364
sale of—See subtitle sale of property	
to be delivered to heirs, when.	10139
Recorded order imparts notice, when	10357
Recording of letters and bonds...	10087
Recovery of property fraudulently disposed of by testator....	10265
disposition of property recovered	10267
not bound to sue for, when....	10266
Removal of executors, etc., when committed for contempt.....	10373
Reports, duty of executors, etc., to file	10918
removal for failure	10918
Revocation of letters for failure to account—See subtitle settlement	10289-10296
Revocation of letters of administration, procedure	10083-10086
Rules of practice applicable.....	10365
Sale of property on levy of execution, when	10186
Sales of property	
account of sale to be returned, when	10247
punishment for failure to return	10247
application for order	
how made	10198
may include personal property	10210
confirmation	
before title passes.....	10197
court to enter order of.....	10227
contract for purchase of lands	
assignment of contract when executed	10240
bond of purchaser	10239
conditions of sale.....	10238
how sold	10237
contribution among legatees, when compelled	10236
entire property sold, when....	10199
estate	
given by will, when liable to sale	10235
subject to debts.....	10235
executor or administrator	
may sell, when.....	10210
not to be purchaser.....	10248
fraudulent sales, penalty for...	10244
liability of executor or administrator for misconduct.....	10243
limitations on actions to vacate	10245
exception	10246

PROBATE PROCEEDINGS (Continued)

Sales of property (continued)	
may be made without order, when	10233
mines, how sold.....	10205
further proceedings, how conducted	10209
order	
of sale, when and how made	10208
to show cause.....	10207
entry and notice.....	10207
petition for sale, filing and contents	10206
when notice unnecessary....	10207
money may be borrowed, procedure	10196
mortgage or lien	
holder may purchase land, procedure	10242
sales subject to, proceeds, how applied	10241
one	
description of real estate sufficient	10365
order of sale only necessary, when	10199
order of	
court dispensed with, when..	10233
court necessary.....	10197
sale to direct what to be sold	
first	10203
partnership interests and choses in action, how sold.....	10202
perishable and depreciating property, how sold.....	10200
personal property	
account of sales to be returned	10247
application by executor....	10201
at public auction.....	10204
how sold	10305
notice of	10201
order	
in which sold.....	10203
of sale	10201
when ordered sold on application to sell real property	10305
petitions must be in writing...	10198
procedure to borrow money on real estate	10249
property	
may be sold, how.....	10195
sales without order of court, when and how made.....	10233
to be applied in payment of debts, when	10234
real estate	
account of sale to be returned	10247
application for	
order of sale, contents and filing	10211
sale may include personal property	10210
appraisal before sale....	10223
bids at private sale.....	10222
confirmation of sale....	10227-10229

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Sales of property (continued)	
real estate (continued)	
conveyances	
how made and filed.....	10228
when and how executed....	10228
defects supplied by proof....	10211
examination of witnesses....	10215
executors liable for misconduct	10243
not to become purchasers..	10248
hearing	
objections to	10226
on petition to sell.....	10214
on return of sales.....	10225
holder of mortgage may purchase	10242
limitation for vacating sales.	10245
may be public or private....	10218
ninety per cent of appraised value must be offered....	10223
notes and mortgage, when taken	10224
notice of	
postponement	10231
private sale	10229
sale, posting and publication	10220
notice to persons interested.	10213
objections, who may file....	10226
on credit, purchase money, how secured	10224
order of confirmation	
to show what.....	10229
when made	10227
order of sale	
contents of	10218
interested parties may apply for, when.....	10219
to authorize what.....	10216
order to show cause	
how issued	10212
service and publication....	10213
petition by interested persons for order of sale.....	10219
place of sale.....	10221
postponement	
notice of	10231
notice to be given.....	10231
of sale, when.....	10230
presentation of claims.....	10214
private sale	
bids, when and how received	10222
how made	10222
ninety per cent. of appraisal to be offered....	10223
public or private sale, order, when	10218
publication of order to show cause	10213
purchase price on credit, how secured	10224
resale, when ordered...10225-10227	
return of proceedings to be made	10225
second sale to be had, when..	10225

PROBATE PROCEEDINGS (Continued)

Sales of property (continued)	
real estate (continued)	
time and place of sale.....	10221
valid, when	10197
when	
made without order.....	10233
notice not necessary.10213,	10233
payment of debts provided for in will.....	10232
sale of all or part may be made	10217
vacated	10225
witnesses on hearing of petition for	10215
sales to pay debts when provisions of will insufficient....	10234
sales without order, when authorized	10233
specific bequests exempt from sale, when	10235
who disqualified from purchasing	10248
Settlement	
account rendered six months after appointment	10288
accounting after revocation of authority	10295
citation to account	
court to issue, how.....	10291
disobedience to, attachment for	10293
objections, how and by whom made	10292
when issued	10289
who may petition for.....	10290
conclusive, when	10303
decree reopened, when.....	10303
day of settlement, appointment and notice	10299
exceptions to account, who may file	10301
exhibit of receipts and claims, when made	10288
extension of time.....	10315
final account, when to be made.	10316
final settlement and distribution	
—See subtitle final settlement and distribution	
when made at same time....	10300
first account rendered, when...	10288
heirs may contest all matters..	10302
moneys, how invested pending settlement	10306
neglect to render final account.	10311
notice of settlement of accounts	10300
objections to account.....	10292
on expiration of notice to creditors	10294
petition for accounting.....	10290
proof of notice, order to show.	10304
rendition of accounts after notice to creditors	
compelled, how.....	10294
when	10294

GENERAL INDEX.

PROBATE PROCEEDINGS (Continued)

Settlement (continued)	
revocation of letters for failure to account, when.....	10296
sale of personal property, when ordered	10305
settlement of accounts, when conclusive	10303
vouchers to be filed in court...	10297
items less than twenty dollars	10298
when payment of debts considered final account.....	10311
Special administrators—See subtitle executors and administrators	10107-10113
Style of citation.....	10359
Summary administration of estates, when had.....	10149
Support of family	
all property to go to children, when	10150
court may make extra allowance, when	10146
estates	
less than fifteen hundred dollars, how disposed of.....	10149
less than three thousand dollars, how disposed of.....	10149
homestead, how set apart.....	10148
no longer than one year.....	10146
preferential payment of allowance	10147
property	
exempt from execution to be set apart for use.....	10145
how apportioned between widow and children.....	10148
widow and minor children entitled to homestead and support	10144
Suspension of executors and administrators	
citation to appear.....	10125
court may compel attendance and testimony	10128
interested parties may appear at hearing	10126
letters revoked, when.....	10125
notice to absconding executors and administrators	10127
when	10124
Taxes to be paid before distribution	2173
Termination of life estate, procedure for	10375
Time between death and letters computed	9052
Transcript of clerk's minutes as evidence of letters.....	10067
Transfer of proceedings to obtain letters	
how made	10122
not to affect rights.....	10122
proceedings to be returned to original court, when.....	10123
when and where made.....	10121

PROBATE PROCEEDINGS (Continued)

Trials, how conducted.....	10368, 10369
Trustees, settlement of accounts after distribution.....	10352-10354
Undivided estates, partition after distribution	10334-10345
Vouchers to	
accompany creditors' claims...	10174
be filed in court, how....	10297, 10298
Widow and children, right to homestead and support.....	10144
Wills	
The law relating to the execution and interpretation of wills, legacies and succession is found in the Civil Code, sections 6974-7092	
acts of part of executors valid, when	10062
administrators with will annexed	
authority of	10063
letters, how issued.....	10063
admitted to probate, how and when	10030
bonds may be dispensed with, when	10096
contest of probate	
certificate of proof to be attached	10037
demurrer on	10032
how instituted	10032
issues raised on.....	10032
judgment, when rendered....	10034
jury	
how obtained	10033
to return special verdict..	10034
proof of	
handwriting admissible....	10035
sanity	10035
what admissible	10035
proofs to be reduced to writing	10034
testimony reduced to writing	10036
verdict and judgment.....	10034
who may appear and contest.	10029
will and proof to be filed and recorded	10038
witnesses, how produced and examined	10035
contesting after probate	
citation to interested parties.	10043
costs, by whom paid.....	10047
judgment of revocation....	10045
contesting after probate (continued)	
hearing on proof of service..	10044
petition	
filing and contents.....	10042
tried by court or jury, when	10045
powers of executor cease, when	10046
probate conclusive, when....	10048
time for contest.....	10042
custodian to deliver to court, when	10020

GENERAL INDEX.

PROBATE PROCEEDINGS (Con- tinued)

Wills (continued)	
executor	
forfeits right to letters, when	10023
of executor, powers of.....	10060
what persons incompetent...	10057
foreign wills	
proceedings on production...	10040
recorded, when and where...	10039
when and how admitted to	
probate	10041
form of letters testamentary..	10064
with will annexed.....	10065
hearing petition for probate...	10028
holographic wills, how proved..	10031
judge may hear petitions and	
issue orders, where.....	10027
letters	
of administration with will	
annexed issue, when.....	10057
testamentary — See subtitle	
letters testamentary	
to issue to whom.....	10056
to minors or persons absent	
from state, when.....	10061
lost or destroyed wills	
certificate of judge.....	10051
injunction pending application	10052
letters, how issued.....	10051
measure of proof.....	10050
notice required	10049
proof	
of execution and validity..	10049
testimony reduced to writ-	
ing	10049, 10051
testimony, evidence in sub-	
sequent proceedings.....	10051
will in existence at death of	
testator	10050
notice	
of petition for probate, how	
given	10025
of time for probate	
proof of making.....	10026
to whom sent.....	10026
nuncupative wills	
contests, etc., how governed.	10055
requirements for probate....	10054
when and how admitted to	
probate	10053
objections to granting letters,	
who may file.....	10058
petition for probate	
contents	10022
may be presented at cham-	
bers	10027
presentation to court, how en-	
forced	10024
probate of wills	
attendance of witnesses.....	10027
conclusive, when	10048
contents of petition.....	10022
contest by attorney appoint-	
ed by court, effect.....	10029
foreign wills	
filing of petition and will..	10040

PROBATE PROCEEDINGS (Con- tinued)

Wills (continued)	
hearing proofs	10041
notice	10040
requisites	10041
when admitted.....	10041
where allowed and recorded	10039
production when in hands of	
third person.....	10024
proof of notice.....	10025
publication of notice.....	10025
testimony	
and proof, when heard.....	10028
necessary for proof of.....	10030
to whom will to be delivered..	10020
unmarried woman as executrix,	
effect of marriage.....	10059
when executor forfeits right to	
letters	10023
where proved.....	10018
first application decides juris-	
diction, when.....	10019
who may appear and contest...	10029
who may petition for probate..	10021
will and proof to be filed and	
recorded	10038
Witnesses, who incompetent in ac-	
tions involving claims against	
estates	10535

PROBATION

See Sentence	12078-12084
------------------------	-------------

PROBATION OFFICERS

See Juvenile Delinquents...	12275-12301
-----------------------------	-------------

PROCEEDINGS

Against joint debtors—See Joint	
Debtors, Proceedings Against	
.....	9762- 9769

PROCEEDINGS AGAINST COR- PORATIONS

See Corporations	12230-12239
----------------------------	-------------

PROCEEDINGS AGAINST FUGI- TIVES FROM JUSTICE

See Fugitives from Justice..	12415-12428
------------------------------	-------------

PROCEEDINGS IN BASTARDY

See Bastardy, Proceedings in....	
.....	12267-12274

PROCEEDINGS IN REM

Effect of judgment.....	10558
-------------------------	-------

PROCEEDINGS SUPPLEMENTAL TO EXECUTION

See Executions	9454- 9466
In justices' courts.....	9697

PROCESS

See Sheriff	4773- 4794
See also Summons.....	9110- 9124
Abbreviations permissible in....	8881
Abuse of, contempt.....	9908
Amendment of, power of court...	8844
Coroner to execute, when.....	4792
Defective, discharge on habeas	
corpus	12362
Defined	16
in act governing sheriff.....	4773

GENERAL INDEX.

PROCESS (Continued)

Discharge of person imprisoned on civil—See Imprisonment.	9875- 9886
Disobedience	
contempt	9908
criminal contempt	10944
District court, extent of	8831
Execution of	
resistance, calling out of militia when justifiable	11657 4788
Grand jury may cause issuance	11824
Habeas corpus, who to issue	12378
In English language	8880
Interference with, contempt	9908
May issue at chambers, when	8867
Mileage, how computed on double service	4900
Of justices' courts	
blanks filled in by justice	9712
disobedience or interference, contempt	9698
execution of, by retiring constable	9721
runs to any part of county	8836, 9711
Officer to exhibit	4789
On	
habeas corpus, who to issue	12378
prisoner, sheriff to receive and deliver	12480
Overcoming resistance to execution of—See Riots	11655, 11656
Penalty for arrest or levy upon property without	10921
Power of courts to control	8844
Removal from office, parties entitled to	11698
Resistance	
contempt	11656
criminal contempt	10944
power of sheriff	11655
proclaiming county in insurrection	11666
when county in insurrection	11292
Service	
against counties	4448
how made—See Service on	
attorney-general when state defendant	9080
lands acquired by United States	24, 25
within	
Glacier and Yellowstone Parks	22, 23
Indian or military reservations	21
Service on	
foreign	
accident insurance companies	6246
assessment life insurance companies	6303
corporations	6651
insurance companies	6149
life insurance companies	6266
surety companies	6212, 6213
fraternal benefit societies	6322
guardian, effect of	10374

PROCESS (Continued)

Sheriff to serve papers sent by mail	9120
Style of	19
Subpoena defined	12179
Witness at inquisition of insanity of defendant	12096

PROCLAMATIONS

Destruction of	11491
Election—See Elections	533- 536

PRODUCTION OF WRITINGS

In custody adverse party	10586
------------------------------------	-------

PRODUCTS OF THE MIND

See Authorship	6806- 6810
--------------------------	------------

PROFANE LANGUAGE

Disturbance of peace, when	11297
--------------------------------------	-------

PROFITS

Banks, how calculated	6061
Who entitled to, during period of redemption	9448, 9449

PROHIBITION

See Intoxicating Liquors	11048-11133
See also Writ of Prohibition	9861- 9864
Supreme court may issue, when	8803

PROHIBITIONS

Against officers	
interest in certain contracts	444
contracts voidable	446
purchasing at official sales	445
Dealing in warrants, scrip, etc	447

PROMISE—See Contracts—See also

Obligation

PROMISE OF MARRIAGE

Chastity essential to	5706
Damage for breach of	8685
When must be in writing	7519

PROMISES

Appointment to office forbidden	10784
---	-------

PROMISSORY NOTES

See Negotiable Instruments	8591- 8596
For stock subscriptions	5968
defenses in actions on	5969

PROOF

See also Acknowledgment	
See also Evidence	
Authentication of judicial records, how made	10555-10557
Burden	
of, who must assume	10616
shifts in murder trial, when	11980
Corporate existence, etc	11983-11985
Defined	10489
Facts which may be proved on trial	10531
Of	
corpus delicti, in homicide	10962
execution of unacknowledged instruments—See Instruments	6920- 6933
perjury and treason	10608
private writings, how made	10596
service of summons, how made	9122

GENERAL INDEX.

PROOF (Continued)

Of (continued)	
will to be made within four years or conveyance good...	7058
wills—See Probate Proceedings	
.....	10018-10055
Official documents, how proved..	10568
On judgment by default, when taken ..	9322
Order of	
how regulated.....	10659
introduction at trial.....	9349
Physical ability of minor to commit rape.....	11001

PROPERTY

The subject of deeds, conveyances, grants and transfers of property is treated under the head of Conveyances	
See also Personal Property	
See also Real Property	
See also Stolen Property	
Absolute ownership defined.....	6676
Accession by union, duty of principal owner.....	6826
principal part, what deemed...	6827, 6828
Accession on uniting materials...	6829
duty on admixture of materials	6831
duty when materials are inseparable ..	6830
owner may elect between thing or value.....	6833
principal part, what deemed...	6827, 6828
wilful trespassers not included.	6832
wrongdoer liable in damages...	6834
Accumulations	
of income	
application, to support of minor.....	6713
other directions, when void..	6712
when allowed.....	6711
when void.....	6710
Acquired, how.....	6816
by occupancy.....	6817
by prescription.....	6818
Acquisition by taxation.....	29
Agricultural land, grants and leases, when void.....	6707
Alienation, future interests suspending, void.....	6706
power, how long suspended....	6705
Alluvion, ownership of land formed by.....	6820
Animals, property in.....	6664, 6665
Application of classification of interests ..	6698
of income to support of minors, when ..	6713
Appurtenances to land defined...	6671
Assignments for benefit of creditors—See Assignments for Benefit of Creditors....	8612- 8641
Banks of rivers, removal of.....	6821
Birth of posthumous child, effect on future interest.....	6716

PROPERTY (Continued)

Boundaries—See Boundaries.....	6771, 6772
Bulk sales act—See Bulk Sales..	
.....	8607- 8611
Burning of insured, felony.....	11426
Chattel mortgages—See Mortgages ..	8275- 8291
Children, parent not to control...	5839
City lots, leases, when void.....	6708
Classification for taxation.....	1999
Conditions	
kinds of.....	6701
precedent, defined.....	6701
precedent, when void.....	6702
restraining alienation, when void ..	6704
restraining marriage, when void	6703
subsequent, defined.....	6701
Contingent interests defined....	6691
Corporate property, procedure for sale, etc.—See Corporations..	6004- 6007
Corporations, limitation on holding, by.....	5909, 6002
Creation of limitation, time of...	6721
Defined	16, 6663, 10713
Delivery to grantee is absolute...	6845
Disposition of income, how governed ..	6709
Dominant and servient tenements, defined ..	6751
Dower rights—See Dower....	5813- 5829
Easements	
actions by owner of servient tenement	6758
actions by owner or occupant of dominant tenement.....	6757
rights of owner of future estate	6756
Escheats, when.....	28
Exempt from execution	
what	9427
when	9427, 9428
taxation ..	1998
Fences—See Fences.....	6777- 6782
Finder, obligations of—See Finding ..	7685- 7700
Fixtures defined.....	6669
attached to mines.....	6670
ownership, in whom vested....	6819
removal by tenant.....	6825
Forfeitures on conviction abolished ..	11605
Fraudulent conveyances, receiving of	11434
Fraudulent transfers of—See Fraudulent Transfers.....	8603- 8606
Future interests	
classified	6689
creation of two or more.....	6692
effect of happening of contingency	6719
entitles owner to what.....	6686
how defeated.....	6716, 6717
how transferred.....	6695
kinds of.....	6689
limitations on.....	6694
not void, when.....	6693
posthumous children may take.	6694

GENERAL INDEX.

PROPERTY (Continued)

Future interests (continued)	
suspending power of alienation	
void	6706
when defeated	6716
when not defeated	6718, 6719
when recognized	6699
Gifts—See Gifts	6882-6889
Good-will	6664, 6813
transfer of	6814
Grants	
after-acquired title passes	6867
attorney in fact executes, how	6863
attornment of tenant, when unnecessary	6872
boundary by highway passes what	6873
by married women to be acknowledged	6861
by owner for life or for years	6869
change of name of former owner	6864
conclusiveness of	6868
defined	6842
delivery in escrow	6846
delivery to grantee is absolute	6845
delivery, when deemed constructive	6848
easements pass with property	6865
effective on delivery	6843
encumbrances embrace what	6875
fee simple, presumed to pass, when	6866
form of grant of real estate	6860
heirs and issue, meaning in certain remainders	6854
how far conclusive on purchaser	6868
how interpreted	6849
implied covenants in grant	6874
incidents	6857
interpretation against grantor	6852
irreconcilable provisions, how construed	6853
limitations, how controlled	6850
lineal and collateral warranties abolished	6876
may inure to benefit of stranger	6858
on conditions precedent	6871
on conditions subsequent	6870
power of attorney by married woman acknowledged	6862
presumed delivered at date	6844
real property, how transferred	6859
recitals, when resorted to	6851
recording of—See Recording Conveyances	6890-6904
redelivery to grantor, effect	6847
subsequently-acquired title passes	6867
what title passes	6856
when in favor of grantee	6852
words of inheritance unnecessary	6855
Homesteads—See Homesteads	6945-6973
Hotels, liability for—See Deposit	7673-7683
How acquired	6816

PROPERTY (Continued)

Husband and wife may alter relations concerning	5787
Husband and wife may hold, how	5789
In what consists	6664
Income defined	6720
accumulations, how directed	6711
Income of, includes what	6720
disposition of, how governed	6709
Increase, ownership of	6714
Injury to, jurisdiction of justices' courts	11630
Interests classified as to time	6684
Interests in common defined	6682
what are	6683
Interests in real property	
application to personal property where classified	6698
where classified	6697
Islands, ownership in navigable streams	6822
ownership in unnavigable streams	6823
ownership when formed by division of streams	6824
Joint interests defined	6680
Kinds of	6666
Kinds of ownership	6675
Land	
appurtenances to, when	6671
boundaries—See Boundaries	6770-6775
covenants running with—See Obligations	7416-7423
defined	6668
leases agricultural land and city lots, when void	6707, 6708
right of owner to use of	6770
Leases—See Landlord and Tenant Liens on—See Liens	8318-8400
Limitations, when deemed created	6721
Limited interest, duration	6688
Loans—See Loans	7702-7729
Lost, larceny of	11376
Lost property, how disposed of—See Finding	7685-7700
Mere possibility not an interest	6696
Mortgages—See Mortgages	8246-8291
Occupancy, title conferred by	6817
Of the state	6674
Ownership	
absolute, when	6676
all property subject to	6673
defined	6663
in whom	6663
kinds of	6678, 6679
may exist, when	6664
of income on suspension of alienation	6715
of increase	6714
qualified, when	6677
several ownership, kinds of	6679
several ownership, when	6678
state may own	6673
Partnership interest defined	6681
Partnership property, regulation of—See Partnership	7983-7992
Perishable property, depositary may sell, when	7652
Perpetual interest, duration	6687

GENERAL INDEX.

PROPERTY (Continued)

Personal property	
buyer acquires better title than seller, when.....	6881
by what law governed.....	6803
conditional sales contracts, filing of.....	7594
indexing.....	7595
release.....	7596
sale on default of vendee....	7597
contracts for purchase or sale, when valid.....	7591
manufacturing contracts, when excepted.....	7592
damages for breach of agreements concerning—See Damages.....	8674- 8683
damages for conversion of.....	8689, 8690
damages for lienor for conversion.....	8691
defined.....	6672
gifts—See Gifts.....	6882- 6889
hiring of—See Hiring.....	7751- 7755
interest in existing trusts, how transferred.....	6877
lien of seller.....	8381
sales of—See Sales.....	7581- 7631
specific relief for possession of—See Specific Relief....	8712, 8713
thing in action defined.....	6804
transfer by owner.....	6805
title on sales passes, when....	6879
transfer by sale, how regulated	6878
transfer generally—See Conveyances.....	6877- 6889
Pledge of—See Pledge.....	8292- 8317
Possibility not an interest.....	6696
not transferable, when.....	6838
Power of alienation, suspension of	6705
Prescription, title conferred by..	6818
Present interest entitles owner to what.....	6685
Private writings, property of whom.....	6811
Products of the mind—See Authorship.....	6806- 6810
Qualified ownership defined.....	6677
Railroads, conditional sales and leases of—See Railroads.....	6533- 6539
Real and personal, division into	
Real property	
agreements for sale—See Sale.....	7588- 7590
when valid.....	7593
attorney in fact executes, how.	6863
boundaries—See Boundaries....	6771- 6775
by what laws governed.....	6722
chattel mortgages defined.....	6727
comprises what.....	6667
construction of certain remainders.....	6742
contingent remainder of term of years.....	6738
contingent remainders in fee, conditions of creation....	6734
how created.....	6735
contracts for sale, in writing, when.....	7519, 7593

PROPERTY (Continued)

Real property (continued)	
covenants, apportionment of...	7423
for benefit of property.....	7418
for payment run with land, when.....	7419
form of.....	7590
running with land.....	7416, 7417
to pay rent, etc.....	7419
usual, include what.....	7589
what run with land, when assigns named.....	7420
who are bound by.....	7421, 7422
conveyance, effect of omitting trust.....	6795
conveyance to be recorded or void, when.....	6935
damages for breach of agreement to convey or buy.....	8672, 8673
for holding over.....	8688
for wrongful occupancy.....	8687
deed, statutory form of.....	8680
defined.....	6668
dower, rights in—See Dower.....	5813- 5828
duties of tenant for life.....	6776
easements—See also Servitudes.....	6749- 6759
easements, pass with.....	6865
estates, classification of.....	6723
how transferred.....	6859
of freehold defined.....	6727
tail, abolished.....	6725
express trusts, for what purpose created.....	6787
interest remaining in grantor	6793
fee simple, when.....	6724
passes by grant, when.....	6866
fee tail and fee simple, when...	6725
fences—See Fences.....	6777- 6782
form of deed.....	6860
freeholds defined.....	6727, 6728
future estates, effect of power of appointment.....	6743
how limited.....	6729
grants by married women to be acknowledged.....	6861
powers of attorney.....	6862
heirs of tenant for life to take as purchasers, when.....	6741
hiring, conditions governing—See Hiring.....	7741- 7750
implied trusts not to prejudice rights, when.....	6786
includes what.....	6667
judgment for possession of or title to.....	8711
kinds of.....	6666
land defined.....	6668
lateral and subadjacent support, right to.....	6773
lien of purchaser.....	8382
lien of seller.....	8378- 8380
limitation on holding by banks.....	6039, 6040
life insurance companies....	6270
stock and mutual companies.	6142
limitation on purchase by insurance corporations.....	6142

GENERAL INDEX.

PROPERTY (Continued)

Real property (continued)	
line trees, common ownership of	6775
notice not necessary to maintain action, when.....	6748
notice, termination of tenancy by	6744
obligation of coterminous owners	6777
partition fences	
duty of adjacent owners to maintain	6778
how maintained.....	6779
notice to repair.....	6782
when built at owner's expense	6782
when removed.....	6781
power, definition of.....	6798
of appointment, effect of....	6743
powers, execution by married women	6800, 6801
how executed.....	6802
who may execute.....	6799
presumption as to breach of agreement concerning.....	8717
profits of land, when liable to creditors	6788
record of, to whom notice....	6934
recording copies in another county	6934
recording of—See Recording Conveyances	
re-entry on, how made.....	6746
remainder, heirs of tenant for life to take as purchasers, when	6741
of estates for life.....	6739
upon contingency.....	6740
upon successive estates for life	6737
when valid.....	6726
remainders, defined.....	6731
future and contingent estates, how created.....	6735
remedies of lessor against assignee or lessee.....	6764
rent dependent on life, recovery	6767
rent on leases for life, how recovered	6766
reversioners, maintenance of actions, when.....	6768
reversions defined.....	6730
rights of grantees of rents and reversion	6763
rights of lessees and assignees	6765
rights of owner.....	6770
income, who entitled to.....	6715
increase of property.....	6714
rights of tenant for life.....	6760
rights of tenant for years.....	6762
servitudes—See Servitudes.....	6749-6759
subsequently-acquired title passes, when.....	6867
successive estates for life, limitation	6736
summary proceedings for possession, how provided for.....	6747
suspension of alienation of trust	6733
suspension of ownership, limitations	6732

PROPERTY (Continued)

Real property (continued)	
tenancy at will, termination by notice	6744
termination of tenancy, how effected	6744-6748
terms of lease, change by notice	6769
title deeds, property of whom..	6815
transfer by beneficiary of interest in trust forbidden.....	6794
treble rent for failure to quit, when	8694
wilful holding over, when...	8695
trees, line.....	6775
trees, right of ownership.....	6774
trust property, title of grantor	6792
trustees, estate ceases, when...	6797
of express trusts to take whole estate.....	6790
trusts	
effect of omitting in conveyance	6795
for what purpose created....	6787
must be in writing.....	6784
result from transfer, when...	6785
resulting, cannot affect purchasers, when.....	6786
rights of author to devise....	6791
sale by trustees, when void..	6796
uses and trust may exist, when	6783
usual covenants include what..	7589
vested powers, by whom executed	6789
water boundaries, extent of....	6771
Receiving, under false personation	11409
Remainders—See Remainders	
Right of re-entry transferable...	6839
Rights of owner of land.....	6770
Rights of state over.....	27
Salé of—See Sale	
Secreting or conveying to avoid levy	11433
Separate property of wife.....	5792
when liable for debts of husband	5799
Servitudes	
action by owner of dominant tenement	6756
of servient tenement.....	6758
by whom created.....	6752
by whom held.....	6753
designation of estates.....	6751
easements, how apportioned....	6755
enumeration of.....	6749
extent of.....	6754
how extinguished.....	6759
not attached to land, when granted	6750
right of owner of future estate	6756
Several ownership defined.....	6678
Shares of stock in corporations—See Corporations.....	5952-5972
Sole or several ownership.....	6678
State may hold.....	6673
property owned by.....	6674
Storage of—See Storage.....	7660-7672
Subadjacent support.....	6773

GENERAL INDEX.

PROPERTY (Continued)

Subject to eminent domain.....	9936
Subsequently-acquired title passes	6867
Succession to—See Succession 7071—	7092
Sudden removal of banks by rivers	6821
Suspension of power of alienation, when	6705
Suspension, when entitled to in- come	6715
Tenants and tenancy—See Land- lord and Tenant	
Things in action defined.....	6804
passage of survivorship.....	6805
transfer of.....	6805
Time of enjoyment, how computed	6700
Title deeds, property of whom...	6815
Title of state by eminent domain	30
Trademarks and signs, property in	6812
Transfer by owner ousted of pos- session	6840
defined	6835
Transfers, when fraudulent.....	8604
without writing valid, when....	6841
Trusts, suspension of.....	6733
Two or more future interests.....	6692
Value, jury to find.....	12026
Vested interest defined.....	6690
Voluntary transfer.....	6836
What may be transferred.....	6837
What title passes on transfer....	6856
Wife, power to convey separate..	5792
Wild animals subject to ownership	6665

PROSECUTION

By indictment, when.....	11629
By information, when.....	11623
Causes on calendar, disposal....	11934
Crime, how prosecuted.....	11798
Dismissal for want of, when....	9317
Dismissal, when.....	12223
when bar, when not.....	12229
For second offense, when forbid- den	11612
How, in district courts.....	11622, 11623
How, in justices' courts.....	11621
Impeachment no bar to.....	11686
In name of state.....	11609
In what name conducted.....	19
Malicious, for security to keep the peace, costs.....	11650
Of impeachment, proceedings....	11670
Order of disposal on calendar....	11934
Prosecutor to pay costs, when....	12070
in justice court, when.....	12331
Public offenses, how.....	11607
Second, for same offense, prohib- ited	11612
Undertaking to keep peace, when and how prosecuted.....	11648

PROSTITUTION

Abatement buildings as nuisance.	11124
Admission of minors to houses of	11046
Buildings used for, declared nuis- ance, abatement	11124-11133
Enticing to place of.....	11143
Keeping disorderly houses..	11140, 11141
Keeping for immoral purposes for- bidden	11008-11016

PROSTITUTION (Continued)

Keeping or residing in house of ill- fame	11140
Kidnaping for, jurisdiction.....	11710
Living with common prostitute...	11016
Procuring to reside in house of ill- fame	11009, 11010
Receiving money from earnings of prostitute.....	11015
Receiving or paying money for causing immoral acts...	11011-11013
Reformatory institutions, admis- sion of women to.....	12547-12552
Transportation of women for, a felony	11008-11016
Unlawful restraint in house of prostitution	11014
Vagrancy	11521

PROTECTION

Force, use of permissible, when..	5694
Personal rights recognized.....	5688
Right to, by state.....	34

PROTECTION OF DEPENDENT AND NEGLECTED CHILDREN

Actions on bonds not necessary..	10476
Bond on suspension of sentence..	10473-10476
Bureau of child and animal pro- tection	10471
inspection by.....	10471
may take custody of children, when	10467
Citation to parents or guardians.....	10468
sureties on bonds.....	10476
Commitment of child to orphans' home	10470
Committed child ward of cus- todian	10471
Construction of act.....	10477
Court may change guardianship, when	10471
Custody of child on suspension of sentence	10474
Definition of dependent and neg- lected children.....	10465
District court, jurisdiction of....	10466
Examination of witnesses.....	10469
Existing laws not repealed.....	10478
Forfeiture of bonds on suspended sentence	10475
Guardianship how selected.....	10471
of estate not included.....	10471
Hearing, how conducted.....	10469
Judgment against sureties on bonds	10476
Jurisdiction of district courts.....	10466
justices' courts.....	10479
Jury trial.....	10466
Mothers' pension act allowance for dependent chil- dren, when made.....	10480
amount of allowance.....	10481

GENERAL INDEX.

PROTECTION OF DEPENDENT AND NEGLECTED CHILDREN (Continued)

Mothers' pension act (continued)	
application for, how made.....	10482
cessation of allowance, when..	10484
citation to mother on protest allowance ..	10482
conditions of allowance.....	10482
county to pay to mother when father in prison.....	10485
investigation	
by probation officer.....	10482
how conducted.....	10482
limited to one-half poor fund..	10483
monthly reports from persons receiving allowance.....	10482
new trials and appeals.....	10487
order of court.....	10483
to state what.....	10483
penalty for procuring fraudulent allowance.....	10486
petition for relief.....	10482
probation officer to investigate facts ..	10482
reports by persons receiving allowance ..	10482
taxpayer may	
attack allowance, how.....	10482
protest allowance.....	10482
warrant	
authorization and issuance...	10482
how drawn.....	10483
Parents punishable, when.....	10472
Petition for	
citation and procedure.....	10468
commitment of child to orphans' home, when.....	10470
duty of county attorney.....	10469
hearing and testimony of witnesses ..	10469
parents' and guardians' rights, how affected.....	10468
when and by whom filed.....	10467
Punishment of delinquent parents	10472
suspension of sentence on giving bond ..	10473
State bureau of child and animal protection may petition for..	10467
Suspension of sentence by court, when ..	10473, 10474

PROTEST

Against tax sales—See Taxation ..	2229, 2230
By notaries—See Notaries Public ..	388-
Fees for.....	4914
Of bills of exchange—See Negotiable Instruments Law.....	8518, 8559-
Payment of taxes under — See Taxation ..	2269- 2272

PROTEST LICENSE FUND

Creation and use.....	2409
-----------------------	------

PROVISIONS

See Food	
Warranty on sale.....	7618

PROXIES

Bank election.....	6038
By married woman without husband's signature.....	5955
Foreign registry.....	5960
In corporate election.....	5937

PUBLIC ACCOUNTANTS

Accountancy, board of examiners in	
appointment ..	3244
compensation ..	3247
examinations by.....	3245
Certificates .	
cancellation of, hearing.....	3248
issuance of.....	3241
prior, validated.....	3251
Examination ..	3244
fees for.....	3246
when	
and where held.....	3245
waived ..	3242
Examiners in accountancy.....	3244
Penal liability of accountants and auditors ..	3249
Penalty for practicing without certificate ..	3250
Persons barred from practice...	3243
University of Montana to issue certificates, when.....	3241
Validation of prior certificates...	3251

PUBLIC ADMINISTRATOR

Actions, duty to prosecute, when	9996
Additional bond, when required..	10007
Administers estates, when.....	9990
Application by, for payment inheritance tax.....	10393
Authority to demand statements concerning property of decedents ..	10010
penalty for refusal to furnish.	10011
Bond ..	467
Bond and oath, how supplied...	9991
Civil officers to notify of what facts ..	9995
Complaint by, concerning embezzlement of property, procedure ..	9997
interrogatories ..	9998
punishment for refusal to attend ..	9998
County treasurer, duties concerning money of estates.....	10001
Court may	
order accounting by, when....	9999
require reports.....	10007
Death of strangers, duty to notify	9992
Duties, where prescribed.....	4858
Duty of persons to surrender estates to, when.....	10012
Duty to	
account to clerk of court, when	10003
administer estates, when.....	9990
pay money to treasurer, when..	10003
Escheats, how disposed of.....	10001
Estates less than two hundred dollars, how administered.	10012-10017

GENERAL INDEX.

PUBLIC ADMINISTRATOR (Continued)

Fees	
for settling small estates.....	10017
how paid.....	10005
of, generally.....	4923
Inheritance tax, duties concern- ing.....	10393
Inventory, duty to return.....	9993
Letters of administration, duty to procure.....	9991
Moneys of estates, how disposed of.....	10001
Must	
not be interested in estates....	10002
procure letters.....	9991
surrender estates to other ad- ministrators, when.....	9994
Oaths, power to administer.....	10006
Partner not to be interested in es- tates.....	10002
Penalty for failure to perform duties.....	10917
Persons to notify of deaths, when	9992
Proceedings against, for failure to pay over money.....	10004
Provisions of codes applicable to.	10008
Register of public administrator..	10009
Report and publication of condi- tion of estates by.....	10000
Reports, additional, when required	10007
Settlement with clerk of court, when.....	10003
Summary settlement of estates, when.....	10013
compensation for.....	10017
hearing of report.....	10015
order upon hearing report....	10016
report to court of property re- ceived.....	10014
Written demand, power to make..	10010

PUBLIC BRIDGES

See Highways.....	1703- 1714
-------------------	------------

PUBLIC BUILDINGS

Declared public nuisance, when...	2454
Defacing, punishment.....	11506
Fire-escapes for—See Fire-escapes	2779- 2785
Inspection by board of health....	2453
Stairways, specifications for....	2780
Unsafe, exits.....	11266

PUBLIC CORPORATIONS

Defined.....	5901
--------------	------

PUBLIC DOCUMENTS

See Writings	
Form and publication by secretary of state.....	138
Series of.....	139
What excepted.....	140

PUBLIC ENEMIES

Act of, excuses performance, when.....	7452
---	------

PUBLIC FERRIES

Establishment of—See Counties..	4477- 4481
---------------------------------	------------

PUBLIC HEALTH

See Health.....	2444- 2514
-----------------	------------

PUBLIC HIGHWAYS

See Highways.....	1612- 1616
Placing carcasses in.....	11235

PUBLIC LANDS

See State Lands.....	1805- 1994
Entry of townsites—See Cities and Towns.....	5310- 5365

PUBLIC LIBRARIES

See Libraries	
Destroying books, etc., in.....	11498

PUBLIC MARKETS

Establishment by counties...4488- 4494	
Inspection of livestock markets..	3328- 3332

PUBLIC MEETINGS

Disturbance of.....	11284
Mayor to order force to preserve peace at.....	11654

PUBLIC MILLS

Regulation of—See Trade Commis- sion for Regulation of Pub- lic Mills.....	3914- 3946
--	------------

PUBLIC MONEYS

Definition.....	11320
Officers refusing to pay over....	11319
Wrongful acts of officers.....	11318

PUBLIC NUISANCES

Abatement, when maintained in violation prohibition law— See Intoxicating Liquors.....	11066, 11123-11133
Dead animals in streets, rivers, etc.....	11235
Defined.....	8643, 11231
Pesthouses, when.....	11234
Punishment for maintenance....	11233
Unequal damages for.....	11232

PUBLIC OFFENSES

Conviction for, what necessary to constitute.....	11614
Defined.....	10721
Duty of county attorney to inquire concerning.....	11802
How prosecuted.....	11607, 11798
Jurisdiction of—See Jurisdiction.	11703-11721
Prevention	
by intervention of officers, when	11635
persons acting in aid of officers, when justified.....	11636
Punishable on legal conviction...	11606
prosecuted, how.....	11607

PUBLIC OFFICE

See also Officers and Public Offi- cers	
Assumption without right.....	10821

GENERAL INDEX.

PUBLIC OFFICE (Continued)

Exception	10822
Intruding into.....	10831
Term construed under corrupt practices act.....	10775

PUBLIC OFFICERS

See also Officers	
See also Peace Officers	
For list of all state officers—See State Officers	
For all matters relating to official bonds—See Official Bonds	
Absence from state forfeits office, when	414, 4739
Acting as, without oath and bond forbidden	10821
acts of de facto officers not affected	10822
Action for restoration to office	
limitations on.....	9038, 9039
when to be commenced.....	9038
wrongful removal from office...	9039
Adoption of code, effect on.....	6
Affidavits to be filed by.....	448
Age and citizenship.....	410
Appointment	
and duration of term.....	419- 423
of deputies.....	420
how made.....	429
number of, when not fixed...	421
when not otherwise provided for	419
Arrests by—See Arrests	
Assaults under color of authority	10929
Attendance at conventions, how regulated	443
Bonds of—See Official Bonds..	464- 509
Bribery of.....	10842-10849
Buying appointments forbidden..	10829
Certain officers not to act as attorneys	8992
Classification of executive officers	109
Classified	50
Clerk not to disclose attachment..	455
Commissions	
form of.....	427
governor to issue, when.....	426
other	428
Compensation—See Salaries	
Compensation of legislature....	74, 75
Constitutional	
oath of office.....	430
provisions regarding elections..	111
Contempt of military court by...	1395
Contests	
generally—See Contest of Elections	
salaries withheld pending decision on.....	451, 452
Contracts, interest in, forbidden	444- 446
Cost of official bonds to be allowed	6228
County officers—See Counties	4723- 4749
Dealing in scrip, etc., forbidden..	447
Delay in taking persons arrested before magistrate.....	10920

PUBLIC OFFICERS (Continued)

Deputies	
of certain state officers.....	122
powers of.....	418
restrictions on appointment...	412
Disfranchised as, penalty, when..	10861
Disqualifications	
generally	410- 412
of particular officers.....	411
Duties	
See specific officers	
concerning prohibition law—See Intoxicating Liquors	
to	
aid	
health boards, when.....	2471
state examiner.....	211
veterans' welfare commission	5663
complete business of office...	4905
furnish statistics.....	3639
give notice of bond sales to state board land commissioners	1913
violation of act misdemeanor	1915
waiver	1914
Election	
contests—See Contest of Elections	
manner prescribed by constitution	111
Eligibility of electors.....	38
Embezzlement by, what constitutes	11318
Employment of clerical help for..	268
Examination of accounts—See Examiner, State.....	210- 217
Executive officers, asking or receiving bribes.....	10824
Executive officers classified.....	109
Exercising functions of office wrongfully	10831
Extortion, penalty for.....	10826
Fees of—See Fees	
county officers.....	4867
Failure to pay over fines, penalty	11321
False certificates by.....	10945
Force, right to use, when.....	10980
Forfeiture by absence, when....	4739
Giving or offering bribes to, forbidden	10823
Holding over.....	423
House of representatives, officers and employees of.....	63
Illegal interest in contracts, penalty	10827
Impeachment, when and how—See Impeachment	11668-11686
Individual or surety bonds may be furnished.....	6236
premiums, payment of.....	6236
Interest in	
contracts generally forbidden..	444
state contracts forbidden.....	267
Itemized accounts by state officers	456
Judicial—See Judicial Officers	
restrictions on residence.....	415

GENERAL INDEX.

PUBLIC OFFICERS (Continued)

Larceny of records by.....	10873
Legislative assembly—See Legislative Assembly	
Levy of execution on property of	9452
Limitations on contracts by.....	269
Making profit from public money forbidden	11318
Mileage, how computed.....	4901
Military officers, designation.....	110
Money belonging to, how garnisheed	9294
Neglect to pay over moneys.....	11319
No reward for arresting fugitives from justice.....	12428
Nominations to senate in writing	424
Not to receive per diem, when...	4936
Notice of removal in certain cases	512
Oath of office	
form of.....	430
of	
deputies and clerks.....	435
members of legislature.....	431
time of filing.....	432
when filed.....	434
where taken.....	433
Oaths	
power to administer.....	463
what county officers may administer	4738
Obstructing	11322
Of cities—See Cities and Towns	
Office hours.....	453
of county.....	4736
Official bonds—See Official Bonds	
.....	464- 509
Omission of duty by, punishment for	10950
Oppression	
and injury by.....	10952
under color of official right....	11394
Penalty for	
collecting extra expense account	459
exercising functions without qualifying	10821
failure to receive person arrested	10916
false oath to expense account..	4906
Possession of books and papers ..	460
proceedings to compel delivery	461
warrant to enforce.....	462
Power state board of examiners to designate employees—See Examiners, State Board of 273-	275
Presenting fraudulent claims, penalty	10828
Privileged communications.....	10536
Proceedings for removal, how instituted	11799
Prohibition against	
absence from state.....	414
dealing in warrants and scrip..	447
interest in contracts.....	267, 444
purchases at official sales.....	445
Public moneys defined.....	11320
Punishment by removal from office in discretion of court....	11588
Purchasing scrip forbidden, when	10827

PUBLIC OFFICERS (Continued)

Qualifications, age and citizenship	410
Receipt of money a felony, when	11114
Receiving excessive fees, punishment	11395
Records open to inspection.....	455
Refusal to	
aid in arrest.....	10930
permit inspection by revenue officers	11330
surrender books to successor...	10832
Removal	
for nonenforcement prohibition laws	11117
notice of.....	512
of officers in addition to penalty otherwise than by impeachment	11588
—See Removal of Public Officers	11687-11702
Reports	
See Public Reports.....	519- 525
penalty for false, by county officers	4908
printing, by whom authorized..	520
when made.....	519
Residence	
qualifications as to.....	413
restrictions on.....	414- 417
Resignations	
how made.....	510
to whom made.....	510
Resisting	
executive officers.....	10825
in discharge of duties.....	10928
officers, penalty for.....	10825
Resolutions of concurrence.....	425
Rooms to be provided for.....	266
Salaries—See Salaries	
withheld pending contests....	451
Sales, interest in, forbidden.....	445
Seals of executive.....	527
Settlement to be withheld, when	450
Signature of officers ex officio....	454
State may require service as, when	26
Supervision by governor.....	124
Taking rewards for appointment to office.....	10830
Tenure of office preserved.....	6
Term of office, when not prescribed	422
To what officers laws applicable..	10833
Township officers, enumerated...	4726
Traveling expenses	
of state officers.....	443, 457, 458
to conventions, etc., how regulated	443
Treasurer not to pay illegal claims	449
Vacancies	
See also Vacancies.....	511- 517
for receiving illegal fee.....	4911
when filled by governor.....	514
Voucher for expenses.....	458
Warrants, dealing in, forbidden..	447
When abolished by adoption of code	6, 7

PUBLIC PEACE

Disturbance a misdemeanor.....	11297
--------------------------------	-------

GENERAL INDEX.

PUBLIC PLACES

Exposing person with contagious disease 11257

PUBLIC POLICY

Contracts against, prohibited. 7553

PUBLIC PROPERTY

Exempt from execution. 9428

Trespass upon
acts constituting. 11335
exceptions 11336

PUBLIC RECORDS

Certified copies, evidence. 10598

Contents of certificate of correctness 10573

Copies to be furnished, when. 10543

entries, prima facie evidence. 10570

How proved. 10568

Larceny or destruction of—See

Larceny 10873-10877

Of private writing, how proved. 10569

Open to inspection. 455, 10542

When removable from office. 10597

PUBLIC REPORTS

Blanks to be printed by secretary

of state. 524

penalty for failure to provide. 525

Distribution by secretary of state 521

Publication of. 520

Semiannual reports of officers. 522

of property on hand. 523

State board of examiners to authorize printing. 520

When state officers to make. 519

PUBLIC SCALES

Establishment of—See Counties.

. 4471- 4476

PUBLIC SCHOOLS

See Schools, Public. 830- 1329

PUBLIC SERVICE COMMISSION

For duties as to Irrigation Dis-

tricts—See Irrigation Dis-

tricts 3953- 4025

Accidents

investigations 3907

report concerning. 3907

Actions to set aside rates, proceed-

ure 3906

appeals 3906

copy of evidence transmitted to

commission 3906

injunction not to issue. 3906

to have precedence. 3906

Annual reports of utilities by. 3886

Attorney-general

legal adviser. 3910

to prosecute for, when. 3904

Books, accounts and records of

utilities 3885

Civil remedies applicable. 3911

Classification of service by. 3893

Clerks, power to employ. 3896

Commercial units of product. 3890

PUBLIC SERVICE COMMISSION

(Continued)

Complaints

against utilities

hearing on. 3897

notice 3897

procedure 3897

witnesses 3897

by utilities. 3899

County attorney to prosecute for,

when 3904

Creation of. 3879

Definition of public utility. 3881

Depositions of witnesses. 3900

Duties of. 3879

Effect of partial invalidity of act

Enforcement of rates or charges. 3905

Engineer, appointment and salary 3896

Examinations

by 3890

of records by. 3887

Expenses, how paid. 3912

Experts and assistants, power to

employ 3896

Hearings before

perjury 3902

record of. 3901

to be public. 3894

Help, employment of. 3896

Injunctions

and mandamus, when applicable 3911

when to issue. 3906

Inspection, rules governing. 3894

Investigation of

public utilities. 3895

subpoena for production of

records 3895

violations of law by. 3904

Irrigation districts, control of—

See Irrigation Districts. 3953- 4025

Penalties

and forfeitures, recovery of. 3910

for failure of utilities to make

reports 3888

for violation of act. 3908

Perjury

acts constituting. 3909

by witnesses. 3902

Power to

fix rules of procedure. 3882

order production of records. 3895

Proceedings to compel compliance

Prohibition against unlawful

charges 3892

Public hearings. 3894

Public utility

accounts and records of. 3885

annual report of. 3886

change in schedules prohibited

classifications 3893

complaints

against 3897

by 3899

hearing on. 3897

defined 3881

failure to make reports. 3888

filing of schedules and rates. 3891

investigation of management. 3895

GENERAL INDEX.

PUBLIC SERVICE COMMISSION

(Continued)

Public utility (continued)	
penalty for violation of act....	3908
refusal to produce information	
or evidence.....	3903
to furnish reasonable service..	3883
Railroad commission ex officio...	3880
Rates	
actions to set aside, procedure	3906
enforcement of.....	3905
fixing rates upon hearing.....	3899
schedule to be filed.....	3891
Rebates and privileges forbidden.	3892
Records	
and reports of.....	3889
how kept	3885
of proceedings before.....	3901
Reports to.....	3886
Right to	
examine records.....	3887
test orders in court.....	3882
Rules of procedure.....	3882
Schedule of rates and charges	
changes in, how made.....	3891
to be filed.....	3891
Seal of.....	3880
Secretary of.....	3880
salary of.....	3896
Service	
charges to be reasonable.....	3883
to be reasonable.....	3883
Special counsel, when provided...	3910
Standards and units of product..	3890
Subpoenas for witnesses.....	3898
Tests by.....	3890
fees for.....	3890
Traveling expenses.....	3912
Units of service, power to pre-	
scribe	3890
Valuation, power to ascertain....	3884
Verification of reports and records	3909
Witnesses	
depositions of.....	3900
fees and mileage.....	3897
perjury by.....	3902
privileges of.....	3902
subpoenas of.....	3898
What companies subject to act..	3881

PUBLIC USES

Authorizing exercise of eminent domain	9934
--	------

PUBLIC UTILITIES

See Public Service Commission..	
.....	3879- 3913
Contributions for political purposes forbidden.....	10790

PUBLIC WAREHOUSE

Control by department of agriculture, labor and industry—	
See Agriculture, Labor and Industry, Department of...3573-	3592

PUBLIC WAREHOUSEMEN

Pooling by, forbidden.....	10912
penalty for violation of act....	10913

PUBLIC WAREHOUSEMEN (Continued)

Regulation of—See Agriculture, Labor and Industry, Department of.....	3574- 3592
---	------------

PUBLIC WATER SUPPLY

Agents of board may enter buildings	2652
Analysis of water	
disposal of fees for.....	2645
fees for.....	2644
rules for.....	2644
Appeals to district court from orders of state board of health	2653
Biennial reports to state board of health	2656
Cities to submit plans to board..	2648
Complaints and investigations...	2651
Duties of board of health concerning	2648
Employment of agents and help..	2647
Examination of waters by board of health.....	2642
Experimental stations, establishment of.....	2655
Jurisdiction of district court....	2654
Penalties for violation of act....	2657
Penalty for violation of rules of board of health.....	2646
Pollution of water forbidden.2484,	2649
complaints and investigations..	2651
Publication of rules and orders of board of health.....	2643
State board of health to control..	2641
Watersheds, protection of.....	2650

PUBLIC WAYS

See also Highways	
What waters are.....	1604

PUBLIC WRITINGS

See Evidence.....	10542-10576
-------------------	-------------

PUBLICATION

See Printing	
Affidavit of, evidence.....	10637
filing of.....	10638
Annual statements of corporations	
—See Annual Statements	
Change of name of partnership..	8013
Codes—See Codes	
Constitutional amendments.....	537
Delinquent tax lists.....	2060
Dissolution of partnership.....	8012
Election laws.....	807
Examinations by insurance commissioner	167
Fictitious name of partnership..	8024
Fish and game laws.....	3674
Giving false information for.....	10999
In libel, defined.....	10993
In probate proceedings, how often	10356, 10364
Laws extra session 1921, how....	5546
Notice of	
appeal	12111
redemption of bonds.....	4621
stock assessments.....	5978

GENERAL INDEX.

PUBLICATION (Continued)

Of	
notice to	
absconding executors and administrators, for removal..	10127
become sole trade.....	9983
dissolve corporation.....	9925
order of court, how made.....	9833
petition for change of name...	9965
summons in	
action for partition.....	9524
actions to quiet title....	9482, 9483
civil actions, when and how made	9117- 9120
justices' courts.....	9636
quo warranto.....	9586
true reports of public proceedings, when not libel.....	10995
Orders	
for hearing of application for pardon	12251, 12252
of court, how published.....	9833
state fish and game commission.	3677
Privileged, when.....	5692
Questions submitted to people....	538
Revised codes of 1921—See Codes	5547- 5553
School laws.....	938
Slandorous, when.....	5691
State printing	
how computed—See Printing...	281- 283
regulation of—See Printing.	276- 280
Tender of fees for.....	4898
Threatening to publish libel....	10998

PULLMAN CARS

License tax on.....	2314, 2315
---------------------	------------

PUNISHMENT

See specific offenses	
See also Criminal Offenses	
See also Sentence.....	12075-12086
Accessories	10734
Acts punishable under foreign law	11582
under different provisions of code	11581
Aiding in misdemeanor.....	11586
Assessment by jury, error, duty of court	12029-12030
justice may modify.....	12328
Attempts, how punishable..	11590-11592
Civil death.....	11601
limitations	11602
Civil rights suspended.....	11600
limitations	11602
Commutation by governor.....	12247
Commutation to commitment to vocational school, when	
Contempt also punishable as crime	11584
Court	
may reduce, when.....	12031
to assess, when.....	12028-12030
to declare, when.....	12028
to pass sentence, when.....	10718
Death, how inflicted.....	12102
Determined, how.....	10719
Different provisions, procedure...	11581
Disobedience to subpoena for coroner's inquest.....	12384

PUNISHMENT (Continued)

Felony, when not otherwise prescribed	10725
Fine and costs, duration of imprisonment	12069
Fine may be added to imprisonment	11599
Foreign conviction for former offense, effect of.....	11595
Foreign conviction or acquittal, defense	11583
Found by jury, court may reduce	12031
Governor may commute.....	12247
How determined between certain limits	10719
Imprisonment, civil death, when..	11601
Imprisonment commences to run, when	11597
Jury may assess, when.....	12027
Justices' courts, jury may fix....	12327
Legal conviction necessary.....	11606
Life imprisonment, court may sentence to, when.....	11598
Misdemeanor, where not prescribed	10725
Mitigation of.....	11585
or aggravation, hearing..	12067, 12068
Of	
accessories	10734
convicts, rules governing.....	12454
insane persons—See Insane Persons	12213-12219
Offense commenced without, but committed in state.....	11704
Offense committed in state, jurisdiction	11703
Officers, neglect of duty, removal from office.....	11588
Omission to perform duty, when not punishable	11589
Persons liable.....	10730
Prior conviction.....	11593
in foreign state.....	11595
of attempts.....	11594
Removal from office in discretion of court.....	11588
Robbery	10975
School children, how inflicted....	1081
Second offense.....	11581
how punished after conviction of attempt to commit.....	11594
how punished after conviction of former offense.....	11593
Second term of imprisonment, when to commence.....	11596
Term of imprisonment commences, when	11597
Treason	10735
When not prescribed in code....	10951
Who liable to.....	10730
Who to impose.....	10718

PUNITIVE DAMAGES

Allowed, when.....	8666
--------------------	------

PURCHASE MONEY

Lien for.....	8378
Priority of mortgage for.....	8236

GENERAL INDEX.

PURCHASERS

See Sale	
Heirs, conveyance to, when good.	7058
take as, when.....	6741
How far grants conclusive upon..	6868

PURCHASING AGENT, STATE

See Purchasing Department, State

PURCHASING DEPARTMENT, STATE

Audit of claims.....	288
Claims	
how audited.....	288
how paid.....	287
Contingent expenses excepted...	285
Contracts for stationery and supplies, how let.....	289, 292
Creation of.....	284
Disposal of proceeds of sale of property ..	289
Duties of purchasing agent.....	285
Employees, compensation and bond ..	290
Payment for purchases by.....	288
Power of purchasing agent.....	289
Public printing, duties concerning	293
Purchasing agent	
appointment, bond and salary..	284
duties ..	285
Supervision of public printing by	293
Tests, power of agent to require.	291
Warehouse, authority to maintain	286

PURE FOOD AND DRUG ACT

Adulterated milk prohibited.....	2580
Adulterated or misbranded food and drugs, sale forbidden....	2578
Adulterated, when deemed.....	2579
Analysis of samples.....	2592
Butter, cheese and milk products, regulation of sale.....	2581
Chemist state board of health....	2593.
Defense to prosecution.....	2588
Definition of food and drugs.....	2578
Disposal of unsanitary food.....	2586
Eggs, regulation of sale.2585, 2634-	2639.
Fines, disposal of.....	2594
Gallon, size of.....	2582
Licenses from state board of health	
effective date of act.....	2590
to whom issued.....	2589
Misbranded defined.....	2587
Peace officers, duty to seize unwholesome food.....	2586
Penalties for violation of act...	2594
Pound, size of.....	2582
Preservative substance, use forbidden, when.....	2579
Prohibition of adulteration and misbranding ..	2578
Prosecution by county attorney..	2595
evidence, report of chemist....	2595
guarantee by wholesaler or jobber as defense.....	2588
Rules to conform to federal regulations ..	2596
Saccharin, sale of food containing	
—See Saccharin ..	2597- 2599

PURE FOOD AND DRUG ACT

(Continued)

Sale of adulterated or misbranded articles forbidden.....	2578
Sale of animals slaughtered under unsanitary conditions.....	2584
Samples of food and drugs for analysis ..	2592
Slaughter-houses, regulation of...	2584
State board of health	
adoption of rules.....	2591
duties and powers.....	2591
Tuberculin test of dairy cattle...	2583
Weights and measures regulated..	2582
When dealer not to be prosecuted	2588

PURE-BRED STOCK

See Livestock.....	3351- 3356
--------------------	------------

QUACK GRASS

See Weeds.....	4506- 4513
----------------	------------

QUAIL

Killing forbidden.....	3700
------------------------	------

QUALIFICATIONS

Aldermen ..	5008
County and township officers.4723,	4724
District judges.....	8863
Justices of	
peace ..	8865
supreme court.....	8862
Mayor ..	5004
Of public officers—See Public Officers ..	410- 417
Police officers.....	5106
Sureties on official bonds.....	476

QUANTITY AND QUALITY

See Warranty.....	7606-7621
-------------------	-----------

QUARANTINE

Against insect pests, etc., in other states ..	3631
penalty for receiving products from infected districts.....	3633
regulations for control of, in state ..	3632
By local boards of health.....	2469
By state board of entomology....	2548
By state board of health.....	2458
penalty for violation ..	2458
Diseased livestock in public markets, when.....	3330
Districts for control of rodents..	2559
Governor may quarantine against insect pests and plant diseases ..	3632
Livestock by livestock sanitary board—See Livestock	
Of	
apiaries by commissioner of agriculture ..	3566
orchards by commissioner of agriculture ..	3627
Sheep and other livestock — See Livestock ..	11535-11540
Venerel diseases, quarantine for ..	2566, 2570

QUARRELING

Disturbance of peace.....	11297
---------------------------	-------

GENERAL INDEX.

QUARTZ MINE INSPECTORS

See Mines and Mining.....3418- 3436
Appointment, term and compensation3035, 3418

QUARTZ MINES

See Mines and Mining.....3418- 3436

QUASHING

Indictment on information, procedure11891-11895

QUESTIONS OF FACT

Addressed to jury..... 10698
How tried when not put in issue by pleadings..... 9010
On trials before referees and officers 10700

QUESTIONS OF LAW

Addressed to court..... 10699
Court to decide during trial.12001-12004
Libel, jury to decide..... 12003

QUIET ENJOYMENT

Covenant contained in agreements to sell real estate..... 7589
Covenant for, when runs with the land 7419

QUIETING TITLE

Actions
concerning real property or mining claims
order, contents and service.. 9493
survey and measurement of land, when ordered..... 9494
to establish title in heirs of deceased entrymen.....9501- 9515
Costs, recoverable, when..... 9489
Decree, effect of..... 9487
Joinder of parties, defendant and unknown persons..... 9480
Judgment binding upon whom... 9488
Jurisdiction, when acquired.... 9487
Lis pendens, when filed..... 9481
Mortgagee must foreclose mortgage of real property..... 9495
Notice of pendency of action... 9481
Parties to action..... 9479
Plaintiff to submit evidence.... 9487
Provisions of code applicable.... 9486
Publication of summons on unknown claimants
affidavit and order for..... 9483
affidavit to show due diligence 9484
Publication of summons, order, how obtained..... 9482
Summons by publication
affidavit and order for publication 9483
affidavit to show diligence.... 9484
form of..... 9485
how published..... 9485
service complete, when..... 9485
when made..... 9482
Survey and measurement of land order, contents and service.... 9493
when ordered..... 9492

QUIETING TITLE (Continued)

Termination of plaintiff's title pending suit, judgment, how rendered 9490
Unknown claimants, how made parties 9480
Value of improvements allowed, when 9491
Venue 9479
Who may bring action..... 9479

QUO WARRANTO

Actions
in supreme court, how instituted and conducted..... 9600
to have precedence..... 9599
where brought..... 9583
Against
corporations, when..... 9577
whom instituted..... 9576
Appeals to supreme court, effect of 9601
Application to file, notice to defendant 9584
Attachment for costs, when..... 9598
Attorney-general to commence, when9578, 9579
Complaint, contents when for usurping office..... 9581
Corporations, actions against.... 9577
Costs 9787
Court may order new election, when 9590
Defendants, who may be..... 9582
District judge may issue at chambers 8867
Judgment
against directors of corporations 9589
to recite what..... 9588
when corporation has forfeited rights 9594
appointment of trustees.... 9595
costs 9598
penalty for refusal to deliver property to..... 9597
powers and duties of trustees 9596
Pleadings, form of..... 9587
Precedence of actions..... 9599
Private person may commence, when 9580
Proceedings instituted, when... 9576
Rights of persons adjudged entitled to office..... 9591
action for damages..... 9592
defendant guilty of contempt, when 9593
Stay on appeal..... 9742
Summons
issuance and service..... 9583
service by publication..... 9586
Who may commence
private person may commence, when 9580
upon whose relation..... 9579

QUORUM

See also Majority
Of supreme court..... 8799

GENERAL INDEX.

RACES

Name and class of horses to be indicated	11560
Unlawful entries prohibited	11559

RACING BETS

Act, when effective	11183
Principals, who deemed	11181
Punishment	11182
Unlawful	11180

RAFTS

See Boats	9602- 9618
Burning or setting adrift	11488

RAILROAD COMMISSIONERS, BOARD OF

See also the following commissions:

Irrigation Commission	3947- 3952
Public Service Commission	3897- 3913
Trade Commission for Regulation of Public Mills	3914- 3946
See also Irrigation Districts	3953- 4025
See also Navigation	3859- 3878
See also Railroads	
Acceptance of favors from railroad prohibited	3813
Accidents	
duty of railroads to report	3799
investigation of	3798
Act, scope of	3792, 3793
Actions	
by	
carriers against railroad commissioners	3840
railroads to determine reasonableness of rates	3809, 3832
shippers to determine reasonableness of rates	3810
precedence of	3816
to recover excess charges	3808
treble damages and costs	3808
to review determination of board	3803
Additional counsel, how paid	3802
Alteration of rates, hearing and complaints	3796
Annual report of board	3815
safety acts	3819
Annual reports from railroads	3820
Appeals to supreme court	
from certain judgment	3831
from orders	3806, 3839
precedence of	3807
Attorney-general, duties as adviser	3802
Bond of commissioners and secretary	464, 3780
Brake equipment, regulation of	3828
Burden of proof in actions	3806
Commercial spurs, powers concerning	3829, 3833
Common carrier pipe lines, regulation of—See Common Carrier Pipe Lines	3848- 3858
Contempt of court, penalty for	3806
Cooperation of box-cars, duty to enforce act	6619
County attorneys, duty to prosecute	3802

RAILROAD COMMISSIONERS, BOARD OF (Continued)

Creation and term	3779
Crossings	
motor vehicles to stop at	3842
powers concerning stations, etc.	3834
Definition of terms	3792, 3793
Discrimination prohibited	3805
Disqualifications of	3779
District court	
jurisdiction to enforce orders of board, procedure	3806
jurisdiction to enforce orders of commission	3830
Docks and wharves, jurisdiction over	1609, 3818
Duty of, concerning law enforcement	3816
Election	3779
Electric signaling devices	
construction and requirements of	3844
hearing and order	3843
installation at highway crossings, when	3842
motor vehicles, duty to stop	3842
penalty for failure to install	3846
petition for installation	3843
time for installation	3845
Employees, power to appoint	3783
Enforcement of certain rules by district court	3838
Excess charges	
actions to recover	3808
treble damages, when awarded	3808
Existing rights not affected by act	3817
Expenses of board and employees	3785
Express companies, regulation of	3797
Extortion by railroads, penalty	3804
Free transportation, right to	3785
General powers of board	3797
Industrial and commercial spurs, power of board	3829, 3833
Injunctions in certain cases	3838
Injunctions, issuance of, by district court, when	3830
Inspector of steamboats, appointment—See Navigation	3859- 3878
Interest in railroad securities forbidden	3779
Joint rates, division among carriers	3836
Jurisdiction of district court to enforce orders of board	3806
Loading platforms	
dimensions of	3823
enlargement of	3824
erection of scales on	3825
maintenance of, by railroads	3822
penalty for violation of law	3826
power to order erection of	3822
Locomotives, equipment with numbers, duty to enforce act	6622
Meetings and quorum	3781
Oath of office	3780
Oaths, power to administer	3781
Officers and employees	3783
Offices	3781

GENERAL INDEX.

RAILROAD COMMISSIONERS, BOARD OF (Continued)

Orders	
enforcement, by district court..	3806
proceedings to enforce in certain cases.....	3830
Penalties and forfeitures, recovery and disposal of.....	3812
Penalty for failure of railroads to comply with orders.....	3841
Penalty for violation of law by railroads.....	3811
Platforms and stations at crossings of paralleling or intersecting lines.....	3834
paralleling defined.....	3835
Postage and incidental expenses	3789
Power of board to fix rates and schedules ..	3794
Power to compel adequate service and accommodations.....	3801
Prisoners, rates for transportation	3821
Process to compel attendance of witnesses ..	3791
Publication of rate schedules....	3795
Qualifications ..	3779
Quorum ..	3781
Railroad crossings outside of incorporated cities, powers and duties concerning.....	6625-6636
Railroad defined ..	3793
Rate clerk, salary of.....	3786
Rates	
See also subtitles schedules and rates	
actions to determine reasonableness ..	3809, 3810
for transportation of prisoners	3821
power of board to alter, hearing on complaints.....	3796
Rebates and discrimination prohibited ..	3804
Reference to laws governing general regulation of railroads...	3847
Removal of, procedure for.....	3816
Reports by railroads, penalty for failure to furnish.....	3814
Review of actions of, by district court ..	3803
Rules and regulations.....	3781
Safety	
appliance, inspector, salary of..	3787
equipment, authority to order..	3827
laws, enforcement of observance ..	3819
statement of results in annual report.....	3820
Salaries of.....	3784-3788
employees.....	440
Schedules and rates	
complaints, power to hear.....	3794
notice of increase.....	3796
power to alter.....	3796
publication of.....	3795
regulation of.....	3794
when effective.....	3795
Seal, judicial notice of.....	3782

RAILROAD COMMISSIONERS, BOARD OF (Continued)

Secretary	
appointment and qualifications.	3783
and stenographers, salary of...	3784
duties of.....	3790
Service, power to compel.....	3801
Sidetracks and stockyards, powers concerning ..	3837
Sleeping-car companies, regulation of.....	3797
Stenographers and inspectors, authority to employ.....	3783
Stenographers, salary of.....	3788
Subpoenas by district court, procedure ..	3791
Supervision certain companies by Supreme court, appeals to.....	3797
.....3807, 3831,	3839
Suspension for neglect of duty..	3816
Tariffs—See subtitle schedules and rates	
Transportation defined.....	3792
Vessels, duties concerning—See Navigation ..	3859-3878
Witnesses	
compelling attendance of.....	3791
fees and immunity.....	3800
privileges of.....	3800
process to compel attendance...	3791

RAILROAD WAREHOUSE

License for.....	2435
------------------	------

RAILROADS

See Bills of Lading	
See also Carriage.....	7811-7845
See also Common Carriers...	7846-7876
See also Freightage.....	7838-7843
See also Railroad Commissioners, Board of.....	3779-3847
See also Stoppage in Transit.....	8396-8400
Accidents, duty to report.....	3799
Accommodations, duty to furnish sufficient ..	6558-6560
Actions	
against railroad commissioners—See Railroad Commissioners, board of	
for killing stock, time for commencement ..	9033
Acts	
causing death punished as murder ..	11470
of congress, power to accept...	6520
Amendment of certificate of incorporation ..	6528
amended certificate, amendment of ..	6530
record of amendment.....	6529
Amount of line to be completed annually	
forfeiture of charter for failure to complete.....	6510
railroads on reservations, when excluded ..	6511
whole line, when to be completed ..	6510

GENERAL INDEX.

RAILROADS (Continued)

Annual	
reports	3814
filing and contents.....	6522
work	6510
Articles of incorporation, contents	5906
Assessment by state board of equalization for taxation....	2021, 2123, 2131- 2137
Assumption of risk, rule, when abolished	6607
Authority to	
consolidate, when.....	6503
to construct roads and branches	6503
construct and operate.....	6503
Badge to be worn by officers....	6563
Baggage	
amount passenger is entitled to	7856
defined	7857
duty of	
carrier to receive.....	7856
railroads to affix checks.....	6557
how carried and delivered....	7859
liability of carrier for.....	7858
sale of unclaimed baggage by railroads	7665- 7672
Bell and steam-whistle to be provided	6521
to be sounded on approaching crossings	6521
Bills of lading—See Bills of Lad- ing	7828- 7834
conditions requiring notice of loss, void.....	6550
issuance by station agents, when required.....	6611
penalty for violation of act....	6612
Bonds and securities, authority to issue	6526
Books to be open for subscription.	6506
Borrowing money and issuing bonds, powers	6513
Brakes, regulation by commission	3828
Bulletin-boards to be installed in stations	6584
penalty for violation of act....	6585
Caboose, size and equipment of..	6577
penalty for violation of law....	6578
Capital stock	
amount and payment of.....	6504
authority to increase.....	6519
sale of delinquent stock, how effected	6505
Carrying animals in cruel manner.	11511
Cars, duty to provide.....	6521
Cattle-guards to be maintained by	6540, 6553
penalty for killing cattle.....	6540
Certificate to be furnished ticket agent	6565
certificate to be exhibited....	6568
license and license fee for....	6565
penalty for violation of act..	6567
sale of tickets without, un- lawful	6566
Change of location or grade au- thorized	6507, 6512
Chattel mortgages, recording and lien of.....	6535

RAILROADS (Continued)

Collisions, death from.....	11230
Commercial spurs, powers of rail- road commissioners concern- ing	3829- 3833
Compensation of employees for damages on removal division point	6623
proviso, notice.....	6624
Conditional sales and leases of equipment and rolling-stock	
chattel mortgage to be recorded	6535
satisfaction, declaration of..	6536
term of lien.....	6535
contract to be recorded.....	6534
declaration of validity.....	6533
limitations of act.....	6539
term of instalments or rent...	6533
title may be reserved, how....	6537
contract, how recorded.....	6538
Confiscation of coal by, when pro- hibited	6592
civil liability for violation of act	6593
criminal liability for violation of act.....	6594
Consolidation, how and when per- mitted	6524
articles of agreement, form and filing	6524
prior consolidations legalized..	6532
with foreign companies, effect of	6001
Contributory negligence, rule, when abolished.....	6606
Cooperage of box-cars for ship- ping grain	
demurrage not to accrue during repairs	6617
duty of railroad commission to enforce act.....	6619
railroad liable for costs.....	6618
railroad to place in proper con- dition upon notice.....	6614
right of shipper upon default of railroad	6615
shipper may make repairs with- out notice, when.....	6616
suitable box-cars to be fur- nished	6613
Corporations, violations of duty by	11256
Counterfeiting tickets.....	11366
Crossings	
duty to sound whistle at.....	6521
grade, trains to stop at.....	6596
obstruction forbidden.....	6595
regulation by railroad commis- sion	3834
Crossings outside of incorporated cities and towns	
action to determine reasonable- ness of order.....	6632
county commissioners may order construction in unincorpor- ated towns, when.....	6626
duty of railroads to construct and maintain.....	6625

GENERAL INDEX.

RAILROADS (Continued)

Crossings outside of incorporated cities and towns (continued)	
extension of time for compliance with order.....	6633
hearing to determine reasonableness of order.....	6630
liability of railroad companies for damages not affected....	6634
order of county commissioners requiring construction, entry and service.....	6627
penalty for failure to comply with order.....	6635
petition for overhead or underground crossings, notice and hearing	6631
power of railroad commissioners concerning	6629
railroad company defined.....	6636
time for compliance.....	6628
Crossings through fences, regulations concerning.....	6552
cattle-guards to be maintained	6553
Damages for refusal to transport	6559
Delay of trains, duty to report by telegraph or telephone.....	6584
agent to post notice of delayed trains	6584
bulletin-boards to be installed in station.....	6584
further reports, when required..	6584
penalty for violation of act....	6585
Delinquent stock, how sold.....	6505
Destruction of property.....	11468
Directors, election of.....	6506
election of officers.....	6506
oath of office.....	6506
Discrimination in rates and charges	3805
forbidden	6571
penalty for.....	6571
Disturbance	
of passengers on.....	11316
police power of conductors.....	11317
Division	
of joint rates among.....	3836
points, compensation employees on removal of.....	6623, 6624
Drains and ditches, duty to construct, when.....	6599
county commissioners may construct and recover costs....	6599
Driving animals upon.....	11555
Duplicate receipts to be marked.	11462
Duty to run cars and furnish accommodations	6557
damages for refusal.....	6559
Dynamiting	11468
Ejection of passenger refusing to pay fare, regulation of.....	6562
Electrical signaling devices at crossings—See Railroad Commissioners, Board of....	3842-3846
Elevators and warehouses, location on right-of-way	
appeals to supreme court, when and how taken.....	6641

RAILROADS (Continued)

Elevators and warehouses, location on right-of-way (continued)	
application for permission to construct, procedure.....	6638
district court	
jurisdiction of.....	6639
proceedings in, how conducted	6640
to determine matter, when...	6638
elevators and warehouses deemed public.....	6642
railroads to provide reasonable sidetrack facilities and connections	6644
time limit for construction of..	6643
Eminent domain, right to exercise	6507
Employees	
intoxication while on duty....	11253
may call physician for injured trainman	6602
Employment of children under age forbidden	3095
Excessive charges misdemeanor..	11401
Expelling passengers, use of force	10980
Explosives, transportation on passenger-cars prohibited.....	6521
Extension of lines into state authorized	6523
Fare, maximum rate of three cents per mile established.....	6586
Fences	
and cattle-guards in eminent domain	9949
cattle-guards to be maintained	6553
width of openings.....	6553
crossing, regulated.....	6552
law applicable to grazing country	6555
penalty for violation of act.	6556
openings to be left under trestles	6554
to be maintained by.....	6540
Fictitious bills of lading	
good faith in issuance, when defense	11461
punishment for issuance.....	11459
Fire-guards, when and where maintained	6597
county commissioners may plow and recover expenses.....	6598
Foreign companies	
consolidation	6531
may extend lines.....	6523
Free	
or reduced transportation prohibited, when.....	6572
transportation	
classification declared reasonable	6576
fish and game officers permitted	3755
permissible, when.....	6573-6575
penalty for violation of act	6574
Freight	
See Carriage.....	7820-7827
See Freightage.....	7835-7843

GENERAL INDEX.

RAILROADS (Continued)

Freight (continued)	
cars	
defined	11254
responsibility assumed when	
carrying passengers on	6560
duty to furnish facilities	6582
General regulation of business	
by railroad commission	6637
where provided	3847
Grade crossings, train to stop at	
—See also Crossings	6596
Grain	
cars, examination and destina-	
tion	3592
cooperage of box-cars for trans-	
portation of	6613- 6619
Headlights for locomotives, regu-	
lation of	6609
penalty for violation of act	6610
Highway crossings	
duty of land owners	1647
no damages for right to cross,	
when	1647
obstruction forbidden	6595
Holdups or intimidation of crews	11468
Hotels, maintenance in national	
parks and along lines	6508
Hours of labor—See Hours of La-	
bor	3081- 3083
How assessed	2021
Increase of capital stock	6519
Industrial and commercial spurs,	
regulation of	3829- 3833
Inflammable oils for lighting, use	
of, prohibited	652-
Injury or death, liability for	6605
Intoxicating liquors, duties con-	
cerning—See Intoxicating	
Liquors	11048-11133
Intoxication of engineers, conduc-	
tors and others forbidden	11253
Issuing fictitious bills of lading	11459
Joint rates, division among	3836
Judgment as lien against property	6527
Killing livestock	11278
attorneys' fees, when taxed as	
costs in action	6544
penalty for violation of laws	6549
Land of United States, when ex-	
cepted from certain grants	6517
Larceny of tickets	11378
Leasing or purchase of other rail-	
roads permitted	6525- 6531
certain rights of state not af-	
fected	6531
how effected	6531
procedure for	6531
Liability for death or injury of	
employees	6605
assumption of risk, rule abol-	
ished	6607
contract, exemption from liabil-	
ity void	6608
contributory negligence, rule	
abolished	6606
Liability of employees for death	
from negligent collision	11230

RAILROADS (Continued)

Liability to employee for damages	7760
contract of insurance no bar	7764
survival of action	7765
vice-principals	7760
Liable for expenses livestock sani-	
tary board, when	3281
Liable for negligence of fellow-	
servant	7766
survival of action	7766
Limitation of action for injuring	
stock	9033
Livestock, liability for killing	
attorney's fee, when allowed in	
case of suit	6544
book to be kept at station show-	
ing animals killed	6542
penalty for violation of act	6543
carcasses and hides of animal,	
preservation of	6548
inspection of	6548
notice to stock inspector of	
district	6548
penalty for violation of act	
company must deposit value of	
animal	6545
fences and cattle-guards, duty	
to maintain	6540
liability for negligent injury of	
liability of owner for driving	
animals upon track	6547
owner to make affidavit	6544
payment to livestock commis-	
sion to be made, when	6546
disposal of funds	6546
provisions of bill of lading re-	
quiring notice of loss, when	
void	6550
Livestock, transportation of—See	
Livestock	
Loading platforms—See Railroad	
Commissioners, Board of	3822- 3826
Locomotive and electric motors to	
be equipped with numbers	6620
hearing and complaint by rail-	
road commission	6621
penalty for violation of law	6622
Malicious injury to	
property	
crimes heretofore committed,	
how affected	11471
rolling-stock and motive power	
11468	
Medical aid for employees, duty	
to furnish	6602
compensation of physician or	
surgeon	6603
refusal to pay compensation a	
misdemeanor	6604
Mileage books, regulation of issu-	
ance	6586
Mortgage of equipment and roll-	
ing-stock	6533- 6539
Moving picture of train robberies	
prohibited	11567
Must provide comfortable cars	6521
National parks, maintenance of	
hotels in	6508
Notice of injury to livestock, re-	
quirements, when void	6550

GENERAL INDEX.

RAILROADS (Continued)

Numbers, locomotives to be equipped with.....	6620- 6622
Obstruction of highway crossings, regulation of.....	6595
penalty for violation of act....	6595
Offenses committed on cars, jurisdiction.....	11709
Officers contracting certain debts, misdemeanor ..	11448
Overcharge by employees, penalty	11401
Passenger	
cars, duty to furnish accommodations on.....	6560
ejection for refusal to pay fare rate	6562
cash fares permitted.....	6586
excess fare prohibited.....	6586
fare for children.....	6586
mileage books, purchase of..	6586
party injured to share fine...	6589
penalty for violation of act..	6588
rebates forbidden.....	6586
three cents per mile, established ..	6586
to what lines applicable....	6587
tunnel charge prohibited....	6590
tickets—See subtitle tickets	
Penalty for violation of laws....	6521
Personal injuries, liability for...	6605
Placing freight-cars in rear of passenger-cars	11254
Platted townsites, duty to furnish facilities at.....	6582
Power	
of city and town councils to regulate	5039
of railroad corporations.....	6507
to borrow money and secure payment	6513
Principal office, establishment and change	6516
Printed regulations to be posted in passenger-cars.....	6561
Procedure when conducting water across right-of-way.....	7110
Purchase of other roads permitted	6531
Rates	
See also subtitle passengers	
fixed at three cents per mile...	6586
for transporting soldiers.....	1402
Real estate, power to buy and sell	6514
Rebates and extortion prohibited	3804
Receiving illegal fares, punishment	11401
Redemption of unused tickets, regulation of.....	6569
penalty for failure to redeem..	6570
Refusal to receive passenger....	11218
Regular train schedule to be maintained	6558
Regulation	
by cities and towns.....	5039
by railroad commission.....	6637
See Railroad Commissioners, Board of.....	3779- 3847
of	6521
Regulations, penalty for violating	11279

RAILROADS (Continued)

Removal of waste from locomotives	11472
Report, annual, filing and contents	6522
Reservations, construction through	6511
Restoring canceled tickets, misdemeanor	11367
Right-of-way	
in canyons, other roads not to be excluded	6509
to be kept free from grass....	6551
liability for damages.....	6551
Rolling-stock	
conditional sale of, valid.....	6533
conditional sale of equipment, conditions governing	
contract, recording and fee for	6538
filing of contract.....	6537
retention of lien for purchase price	6537
Running trains	
at excessive speed in cities forbidden	6521
over unsafe bridges forbidden..	6521
Sale of	
equipment and rolling-stock....	6533- 6539
property received for transportation, penalty.....	11463
Shipment of game and fish by....	3730-3736, 3744
Shipping facilities, duty to furnish at platted townsite.....	6582
Sidetracks and stockyards.....	3837
Spark-arresters, duty of railroads to provide, when.....	6600
penalty for violation of law...	6601
Speed of trains to conform to laws	6521
Standing rewards for holdups....	12416
State not responsible for debts of	6518
Stealing rides on brake-beams, etc., upon cars or locomotives, prohibited	11568
Stock, liability for injury to.6540-	6550
Stoppage in transit—See Stoppage in Transit.....	8396- 8400
Storage of property—See Storage	7660- 7672
Storage of unclaimed property...	7667- 7670
Streams, power to divert.....	6515
Street railroads—See Street Railroads	
Suburban roads to pay for use of bridges, when.....	1708
Survey and location of road....	6510
Table of rates, duty to post....	6521
Telegraph line, power to maintain	6517
Telephones to be maintained in office, when.....	6579
business hours defined.....	6580
penalty for violation of act....	6581
Three-cent rate established.....	6586
Ticket agent, certificate to be furnished	6565
Tickets	
See subtitle free transportation	6572- 6576

GENERAL INDEX.

RAILROADS (Continued)

Tickets (continued)	
counterfeiting of.....	11366
how issued.....	6564
penalty for failure to redeem..	6570
redemption of unused.....	6569
rights of holder.....	6564
unlawful sale of, prohibited...	6566
penalty for violation of law..	6567
Townsites, duty to furnish facilities at.....	6582
Trainmen	
intoxicated	11253
peace officers for certain purposes	11570
Trains	
to be run on regular time.....	6558
to stop at grade crossing, when application to district court for approval plans.....	6596
county commissioners to approve plans.....	6596
use of signaling devices.....	6596
Transportation of	
diseased cattle under quarantine	11539
explosives, regulation of...2811,	6521
fish and game forbidden, when.....	3734, 3735, 3744
intoxicating liquors by—See Intoxicating Liquors.....	11048-11133
scabby sheep.....	11536
soldiers, rate for.....	1402
stallions or jacks without certificate	3373
Tunnel charges prohibited.....	6590
penalty for violation of act...	6591
Unauthorized sale of property by, when	11463
Validity of debts not affected...	11449
Vice-principals, liability for negligence of.....	7760
Violation of duty by	
employees	11255
roads	11256
Warehouses, location on railroads	6638- 6644
Whistle, duty to sound at crossing	6521
Wilful violation of duty.....	11255
Wrecking of trains.....	11468-11471
Wreck-trains exempt from hours of labor law.....	3083

RAMS AND GOATS

See Livestock.....	3390- 3392
--------------------	------------

RANCHERS

Lien for services to stock.....	8383
---------------------------------	------

RANCHES

Registration, procedure for.....	6897
----------------------------------	------

RANGE

Diseased animals running at large	11556
Driving cattle from, forbidden...	11549
Moving diseased sheep over.....	11537

RANGE-STOCK

How attached—See Attachments	9296- 9300
------------------------------------	------------

RAPE

Defined	11000
Penetration sufficient.....	11002
Physical ability must be proved, when	11001
Punishment	11003

RATES

See Railroads	
For State Printing—See Printing	276- 280
Passenger rates within state.....	6586

RATIFICATION

Of act of agent.....	7940
not to work injuries to third parties	7943
partial	7941
rescission	7944
when void.....	7942
Of voidable contract.....	7496

RAVALLI COUNTY

Boundaries and county seat.....	4343
---------------------------------	------

REAL ESTATE—See Real Property

REAL ESTATE AGENT

Appointment to be in writing...	10613
---------------------------------	-------

REAL ESTATE BROKERS

Employment to be in writing.....	7519
----------------------------------	------

REAL ESTATE COMMISSIONER, STATE

Agent's license.....	4066
Appeals to district court on refusal to grant license.....	4071
Appeals to supreme court.....	4071
Application for license.....	4065
Attorney-general, duty administration of act.....	4063
Bond of applicant.....	4065
Bonds	
approval of.....	4067
run to state.....	4067
Broker to maintain place of business	4069
additional office, license fee for	4069
Complaints for violation of act	
duty of county attorney.....	4073
prosecution of.....	4073
Consent to suit by nonresidents..	4068
Copartners, effect of license to...	4064
Copartnership, application for license	4065
bond	4065
Corporations, application for license	4065
bond	4065
Corporations, effect of license to..	4064
Designation	4056
Disposal of fees	4061
Duties	4057
Effect partial invalidity of act...	4078
Fee for license.....	4065
Fees, disposal of.....	4061
Home office of brokers.....	4069
Investigation by commissioner...	4070
License	
application for.....	4065

GENERAL INDEX.

REAL ESTATE COMMISSIONER, STATE (Continued)

License (continued)	
card	4069
duty to obtain	4060
fee for	4065
for real estate broker required	4060
ground for revocation	4070
issuance of	4065
scope of	4064
suspension of	4070
Licenses to real estate brokers ..	4057
Mailing list of licensed brokers ..	4077
Nonresidents to file consent to be sued	4068
Notice of change of place of busi- ness	4069
Notice on termination employment broker	4076
Oil agreements, regulation of	4059
Payment commission to nonli- censed broker forbidden	4069
Penalty for acting without license ..	4074
Person defined	4058
Power of commissioner to admin- ister act	4072
Powers of	4057
Process, how served	4068
Proof of license, when necessary ..	4075
Punishment for acting as broker or dealer without license	4074
Real estate brokers	
actions not to be maintained by unlicensed brokers	4075
commissioner to furnish list of licensed brokers	4077
defined	4058
home office, duty to maintain ..	4069
license, issuance of	4060
penalty for failure to obtain license	4075
termination of employment agent, notice to commissioner ..	4076
Records as evidence	4062
Renewal application, waiver of reference	4065
Revocation of license	4065
grounds for	4070
appeals to district court	4071
Right of action against agents and principal	4067
Salesman's license, issuance and fee	4066
Seal of commissioner	4062
Supreme court, appeals to	4071
Suspension and revocation of li- cense	4071
Unincorporated associations, ap- plication for license	4065
What agreements deemed dealing in real estate	4059
Witnesses, subpoena of	4072

REAL ESTATE MORTGAGES

See Mortgages	8262- 8274
---------------------	------------

REAL PARTY IN INTEREST

Must prosecute actions	9067
------------------------------	------

REAL PROPERTY

Actions	
commenced where situate, when for	8831
partition—See Partition	9516- 9575
recovery not prejudiced by alienation	9498
waste	9475
notice of lis pendens	9109
to establish title in heirs of de- ceased entrymen	
affidavits to be filed by plain- tiff, contents of	9503
default judgment prohibited ..	9510
depositions may be taken	9512
executors, administrators and guardians may maintain ..	9514
how commenced	9502
inquiry for next of kin	9510
judgment	
conclusiveness of	9511
to determine heirship	9511
jurisdiction, when acquired ..	9507
lis pendens, filing and contents parties defendant, how de- scribed	9509
remedies cumulative	9502
rules of evidence and proced- ure applicable	9515
subsequent actions forbidden, when	9512
summons	
form and issuance of	9513
posting of	9504
publication of	9505
service, how made on dif- ferent defendants	9506
time for appearance of parties ..	9508
verification of answer	9508
who may institute	9501
to quiet title—See Quieting Title	9479- 9514
to recover—See Quieting Title	9479- 9514
where tried	9093
Adverse	
claims to mines under acts of congress, rules governing	9500
possession of, when deemed	9020- 9024
Agreements for sale—See Sale	7588- 7590
Alienation, pending suit, effect of ..	9498
Attached, how	9262
By what law governed	6722
Condemnation of—See Eminent Domain	9933- 9958
Contracts for sale in writing, when	7519, 7593
Conveyance must be in writing	10611
Covenants running with land—See Obligations	7416- 7423
Damages	
for	
breach of agreements con- cerning	8672, 8673
wilful holding over	8688
wrongful occupation, measure of	8687

GENERAL INDEX.

REAL PROPERTY (Continued)

Damages (continued)	
recoverable for injury after ex-	
ecution sale.....	9497
Defined	16, 1996, 6668, 10713
Dispossession unlawful.....	11394
False representation by married	
person	11413
Fixtures, larceny.....	11380
Forcible entry and detainer—See	
Forcible Entry and Detainer	
.....	9887- 9906
Fraudulent conveyances.....	11432
Hiring, conditions governing—See	
Hiring	7741- 7750
How described in pleadings.....	9168
Husband or wife selling under	
false representations	11413
In taxation law.....	1996
Liability of parties on bail bond..	12165
Lien	
filing of complaint in bastardy	12269
judgment for fine.....	12073
of seller—See Lien.....	8378- 8380
Limitation on	
holding by life insurance com-	
panies	6270
purchase by insurance corpora-	
tion	6142
Malicious injury to.....	11481
Meaning of term.....	16
Mining claims, actions governed	
by local rules.....	9499
Possession by mortgagee, how ob-	
tained	9495
Presumption as to breach of agree-	
ment concerning.....	8717
Recording conveyance construc-	
tive notice.....	6934
filing copy in another county..	6934
Regulation of estates therein—See	
Property	6722- 6748
Retaking possession after lawfully	
removed from.....	11301
Rules for construing description	
of lands.....	10683
Sale of property of estates—See	
Probate Proceedings...10210-10248	
Selling twice.....	11412
Summary proceedings to obtain	
possession of—See Forcible	
Entry and Detainer....9887- 9906	
Time for commencement of ac-	
tions—See Statute of Limita-	
tions	9012- 9026
Transfer of actions affecting.....	4415
Transfers to be in writing, when	
.....	10611, 10612
Treble rent for	
failure to quit, when.....	8694
wilful holding over, when.....	8695
Writ of possession against defend-	
ants, when.....	9081
Writing necessary for conveyance	10611

REASONABLE DOUBT

As to degree of offense, result of	11972
Defendant entitled to acquittal,	
when	11971

REASONABLE DOUBT (Continued)

Instruction to jury in criminal	
cases	10672

REBATES

Life insurance companies pro-	
hibited	6286
Railroads prohibited.....	3804

REBUTTAL

Evidence, when allowed.....	9345
-----------------------------	------

RECALL

Officers of cities under commission	
form of government.....	5394

RECEIPTS

See Uniform Warehouse Receipts	
Act	4079- 4138
Acknowledgment of payment of	
premium in insurance policy.	8119
Delivery of unauthorized poll-tax	
and other receipts.....	11325
For	
fees of county officers.....	4889
goods taken from persons ar-	
rested	12245
property taken on search-war-	
rant	12406
Issuance by register of state lands	1893
Issuing fictitious, when prohibited	11459
Of money	
by agent.....	7955
by special agent.....	7956
Persons paying entitled to.....	10681
Possessing unauthorized blank re-	
ceipts	11326
Presumption arising from.....	10606
Sheriff's receipt for accounts col-	
lected	9270
When debtor entitled to.....	7445

RECEIVERS

Appointed, when.....	9301
Appointment on dissolution of cor-	
porations	9303
Attorneys not to be appointed,	
when	9304
Bonds, laws applicable.....	503
Bonds payable to state.....	504
Dissolution of corporations, ap-	
pointment on.....	9303
Ex parte applications, undertak-	
ing required.....	9304
For banks, appointment by super-	
intendent of banks.....	6079
For private banks.....	6103
Funds, how to be invested.....	9307
How appointed.....	9301
In	
foreclosure suits.....	9301
proceedings supplementary to	
execution	9463, 9464
In aid of	
appeal	9301
execution	9301
Investment of funds in hands of	9307
Notice of application for appoint-	
ment, when given.....	9302

GENERAL INDEX.

RECEIVERS (Continued)

Oath and undertaking.....	9304, 9305
Of escheated estates.....	9960
On dissolution of corporations....	9301, 9303
powers and duties.....	9306
Powers of.....	9306
Property vests in, in proceedings supplementary.....	9466
Title vests in, by relations, in proceedings supplementary.....	9466
To carry judgment into effect....	9301
Undertaking required, when.....	9305
When appointed.....	9301
Where property in danger of being lost.....	9301
Who disqualified to act.....	9304

RECEIVING STATIONS

Licensed by livestock sanitary board.....	3282
---	------

RECEIVING STOLEN PROPERTY

Larceny out of state, jurisdiction	11715
See also Larceny	
Punishment for.....	11388

RECESS—See Adjournment

RECITAL

Facts in instrument, conclusiveness of.....	10605
In grants, when resorted to.....	6851
Statutes, effect of.....	10553

RECLAMATION OF STATE LANDS

See Carey Land Act Board...	1949- 1991
-----------------------------	------------

RECOMMITMENT

Defendant after giving bail, when and how.....	12167-12174
--	-------------

RECORD

See also Records, Judicial Records, Public Records	
Contents, on appeal in criminal cases.....	12045
For review by supreme court on appeal, what constitutes....	12045
Judgment-roll, what constitutes..	12074
On appeal	
from final judgment, contents of	9402
from judgment or order.....	9402
in criminal cases, contents....	12045
to district courts.....	9756
to supreme courts—See Appeals.....	9402, 9745
Public records not to be removed	10597
Transcript of matters of court, how authorized.....	12045
Written instructions part of.....	12043

RECORDER OF BRANDS

See Livestock.....	3299- 3308
--------------------	------------

RECORDING CONVEYANCES

See also Conveyances	
Acknowledgments—See Acknowledgments	

RECORDING CONVEYANCES

(Continued)

Assignment of mortgage, notice, when.....	8259, 8260
Books of records for grants and mortgages specified.....	6900
Certified copies, record in another county.....	6890, 6934
Certified instruments, when recorded.....	6894
Conveyances defined.....	6936
by what law governed.....	6931
heretofore made, by what law governed.....	6930
void as to whom unless recorded	6935
County records, how recorded	4795- 4814
Declarations of trust, etc.....	7907
Defects in early instruments, curative act.....	6932
Duties of recorder, where prescribed.....	6901
Early conveyances, by what law governed.....	6930, 6931
Early deeds, when valid though not acknowledged.....	6933
Fees of recorder, endorsement of	6896
In what office recorded.....	6898
Instruments deemed recorded, when.....	6899
entitled to record.....	6890
Judgments, acknowledgment unnecessary.....	6891
recording in another county...	6890
Letters patent, recording without acknowledgment.....	6892
Mortgages to be recorded.....	6895
Offering forged instruments for record.....	10875
Patents, recording of.....	6892
Power of attorney, how revoked	6937
Record of defective instruments, effect of.....	6932
certified copies as evidence....	6932
Recorded conveyances, constructive notice.....	6934
copy in another county.....	6934
Recording copies in another county.....	6890, 6934
Registration of ranches, procedure	6897
Release of oil, gas and mineral leases, when.....	6902
action to compel.....	6903
damages, costs and attorney fees.....	6903
demand for release, when and how made.....	6904
Transfers in trust for benefit of creditors, record of.....	6895
Trust agreements, recording of...	7907
Unacknowledged deeds valid, when.....	6933
Unrecorded conveyances, when void.....	6935
Unrecorded instruments valid between parties.....	6938
Void unless recorded.....	6935
What instruments entitled to...	6890
where recorded.....	6898

GENERAL INDEX.

RECORDS

- See also Counties
- See also Judicial Records
- See also Public Records
- See also Record
- Certified copies as evidence..... 10598
- Clerk of district court to keep
 what 4815
- Copy of foreign records as evi-
 dence 10557
- Corporate, contents of.....6008, 6009
- County clerk to record what..... 4796
- County commissioners open to in-
 spection 4458
- Destruction of..... 10874
- by officers..... 10873
- False entries in, forgery..... 11356
- False, of marriage..... 11213
- Governor to keep what..... 126
- In certiorari..... 10357
- Judicial record
 defined 10554
- how authenticated.....10555, 10556
- Of
 livestock sold at auction, failure
 to keep..... 11541
- orders in probate proceedings.. 10357
- trademarks and labels, evidence 11206
- Offering false instrument for rec-
 ord 10875
- Possession by public officers..... 460
- proceedings to compel delivery 461
- warrant and attachment to en-
 force possession..... 462
- Public, open to inspection..... 455
- State board of examiners..... 234
- Transfer of records of new coun-
 ties—See Counties.....4408- 4426
- Validation of certain records 4797, 4798

RECRIMINATION

- As affecting divorce..... 5760
- Defined in actions for divorce... 5760
- bar to defense, when..... 5761

RED FLAG

- Exhibition of, prohibited, where 10745
- Penalty 10746

REDEMPTION

- Action to redeem mortgage, when
 barred by adverse possession 9044
- Amount to be paid..... 9443
- By judgment creditor against de-
 cedent 10186
- Certificate of..... 9444
- Court may restrain waste until.. 9447
- From execution sale..... 9442
- From liens—See Liens.....8238- 8245
- From tax sales—See Taxation 2201- 2213
- How often property may be re-
 deemed 9444
- Notice to sheriff..... 9444
- Of testator's property, by judg-
 ment creditor, when..... 10186
- Papers necessary for..... 9446
- Rents and profits prior to..... 9448
- Right of, contracts in restraint
 void 8230
- Right of from pledge, foreclosure 8317
- To whom payment to be made... 9445

REDEMPTION (Continued)

- Who may redeem..... 9442

REFEREES

- See also Reference of Actions
- Bills of exception, settlement... 9390
- Corrupt conduct of..... 10857
- Embracery, punishment..... 10858
- Fees of..... 9792
- Improper influencing of..... 10856
- In
 disbarment proceedings....8953, 8972
- partition—See Partition...9516- 9575
- probate proceedings..... 10369
- proceedings supplementary to
 execution.....9457- 9462
- Offering bribes..... 10853
- Questions of law addressed to... 10700
- Receiving bribes..... 10854
- Reference of claims against es-
 tates 10188, 10189
- Upon judgment on issue of law,
 when ordered..... 9373

REFERENCE OF ACTIONS

- Findings of referee
 effect of..... 9384
- exceptions to..... 9385
- Number of referees..... 9376
- Oath of referees..... 9377
- Objections to referee
 grounds of..... 9381
- how disposed of..... 9382
- Ordered
 on motion, when..... 9375
- upon agreement, when..... 9374
- Powers of referee..... 9379
- Proceedings when there are sev-
 eral referees..... 9380
- Referees
 number of..... 9376
- oath of..... 9377
- powers on trial..... 9379
- Report of findings in writing.... 9383
- Witnesses may be subpoenaed... 9378

REFERENDUM

- See Initiative and Referendum.99- 108
- In cities and towns—See Cities
 and Towns.....5059- 5068
- Ordinances under commission-man-
 ager plan of government—See
 Cities and Towns.....5408- 5442

REFORM SCHOOL

- See Montana State Industrial
 School12488-12515

REFUNDING BONDS

- Counties—See Counties.....4614- 4620

REFUNDING BONDS FOR CAP- ITOL BUILDING

- See Bonds.....5571- 5580

REFUSAL TO DISPERSE

- Punishment for..... 11298

REGISTER

- Of
 actions by clerk of court..... 9822
- public administrator..... 10009
- Pawnbroker's, failure to keep... 11185
- Pawnbroker's, open to inspection 11187

GENERAL INDEX.

REGISTER AND DEPUTY REGISTER OF STATE LANDS

See State Lands.....1818- 1823

REGISTRATION

See also Registry

Automobiles—See Motor Vehicles

.....1755- 1763

City and town elections..... 5009

Fraudulent, punishment for..... 10748

Midwives 2535

Officers violating laws, punishment 10747

Physicians 2535

Ranches, procedure for..... 6897

Undertakers 2535

Voters—See Elections.....553- 586

REGISTRATION OF VITAL STATISTICS

See Vital Statistics, Bureau of...

.....2517- 2527

REGISTRY

County warrants.....4612, 4753- 4757

State warrants..... 180

REINSURANCE

See Insurance.....8149- 8152

By assessment accident insurance companies 6242

In unauthorized fire insurance company forbidden..... 6165

RELATIONSHIP

See Consanguinity

RELATIVES

Duty to care for poor..... 4522

Inheritance by—See Succession..... 7071- 7092

Marriage forbidden, when..... 5699

RELEASE

Certain claims not affected by.... 7465

Extinguishes obligation, when.... 7464

Of joint debtor, effect..... 7466

Oil, gas and mineral leases, procedure 6902- 6904

Sureties on official bonds....494- 500

RELIEF

See also Specific Relief.....8707- 8713

Against judgments, when granted 9187

Cannot exceed demand of complaint, when..... 9316

Compensation defined..... 8657

Damages for detriment after suit. 8661

who may recover..... 8659

Detriment defined..... 8660

Enforcement of penal laws, when. 8710

Exemplary damages, when allowed 8666

In case of forfeiture..... 8658

Interest discretionary with jury, when 8663

Interest rate chargeable, when... 8664

Interest waived by accepting principal 8665

Judgment for possession of real property, how obtained..... 8711

RELIEF (Continued)

Preventive, how given.....8709, 8736

Recovery of damages includes interest 8662

Species of..... 8657

Specific possession of personal property 8712

of real property..... 8711

Specific, when and how allowed.. 8707, 8708

RELIEF ASSOCIATION

Establishment by fire departments—See Cities and Towns

..... 5129- 5137

RELIGION

Noninterference with religious beliefs, when..... 2510

Religious societies exemption of property from taxation 1998

fees for filing articles..... 146

RELIGIOUS CORPORATIONS

SOLE

See Corporations.....6459- 6461

RELIGIOUS DIOCESAN CORPORATIONS

See Corporations.....6459- 6461

RELIGIOUS, SOCIAL AND BENEVOLENT SOCIETIES

See Corporations.....6453- 6458

Contents of articles of incorporation 5906

RELIGIOUS WORSHIP

Disturbance of..... 11042

Selling merchandise at camp meetings 11043, 11044

REMAINDERS

Conditional limitation upon..... 6740

Construction of certain remainders 6742

Contingent remainder in fee, creation of..... 6734

Contingent remainder on term of years 6738

Creation upon successive estates for life..... 6737

Defined 6731

Heirs of tenant for life, when to take as purchasers..... 6741

How affected by death of prior tenant 7043

Limitation of contingency..... 6740

Of estates for life..... 6739

Valid, when..... 6726

REMEDIES

See Actions

Civil and criminal, not merged... 9007

Classification of..... 8996

Judicial, defined..... 8995

REMITTITUR

How certified to clerk of district court 9753

Of judgment on appeal..... 12131

GENERAL INDEX.

REMOVAL OF PUBLIC OFFICERS

- See also Impeachment.....11668-11686
 By proceedings other than im-
 peachment
 accusation
 by whom presented..... 11688
 form of.....11689
 service and filing..... 11690
 to be transmitted to county
 attorney 11690
 all officers subject to..... 11687
 answer by defendant..... 11695
 appeal, how taken..... 11700
 county attorney, procedure for
 removal of..... 11701
 defendant may answer accusa-
 tion, how..... 11692
 duty of defendant to appear... 11691
 fees, summary removal for ille-
 gal collection, procedure.... 11702
 form of accusation.....11689
 form of objection to accusation. 11693
 judgment on conviction, how
 entered 11699
 manner of denial..... 11694
 procedure
 on overruling objections.... 11695
 on plea of guilty..... 11696
 on refusal to answer..... 11696
 proceedings if defendant does
 not appear..... 11691
 process for attendance of wit-
 ness 11698
 summary procedure for removal
 of officers, when..... 11702
 suspension from office, when... 11700
 trial by jury..... 11697
 vacancy, how filled..... 11700
 who subject to removal..... 11687
 Court may remove in addition to
 penalty 11588
 For nonenforcement prohibition
 laws 11117
 Proceedings, how commenced....
 11799, 11800
 Summary proceedings for removal
 of 11702

REMOVING LANDMARKS

- Punishment for..... 11484

RENTALS

- Disposal of U. S. rentals for oil
 royalties—See Royalties.1211, 1212
 State lands—See State Lands.1882- 1904

RENTING—See Landlord and Ten- ant

RENTS

- Presumption from payment..... 10606
 Whe entitled to, during period of
 redemption9448, 9449

RENUNCIATION

- In lieu of dower..... 5820
 Of profits in partnership, effect of 7993

REPAIRS

- On public highways..... 1627

REPEALS

- Amendment of repealed acts void 98
 Of repealed statutes by codes.... 5526
 Revival by, when..... 96
 Statutes subject to..... 95
 When bar to prosecution..... 97

REPLEVIN—See Claim and Delivery

REPLY

- Allegations, when deemed contro-
 verted 9178
 Contents of9158, 9159
 Demurrer to..... 9161
 Failure to, effect of..... 9160
 Time for filing..... 9158

REPORTERS

- See Newspapers
 See Stenographers
 Court reporters—See Stenogra-
 phers8928- 8935

REPORTS

- See also specific officers and com-
 missions
 See also Public Reports.....519- 525
 Alien employee.....3040- 3043
 Annual report of
 county clerk 4814
 county superintendent schools.. 973
 foreign corporations..... 6654
 livestock commission..... 3258
 public service commission..... 3889
 railroad commissioners..... 3815
 Attorney-general 199
 Banks—See Banks and Banking.
 6071- 6076
 Carey land act board..... 1991
 Clerk of school district..... 1052
 Commissioner of agriculture.... 3560
 Corporations—See Annual State-
 ments
 County clerk to state auditor.4747, 4748
 County treasurer 4750
 Depositories of state funds..... 189
 Duties of governor concerning... 124
 Executive boards of state institu-
 tions, reports of expenses and
 disbursements1925, 1926
 Ferry keeper..... 1771
 Fire marshal..... 2759
 Fish and game warden..... 3673
 Industrial accident board..... 2968
 Livestock commission..... 3258
 Public officers—See Public Re-
 ports519- 525
 Public utilities..... 3886
 Quartz mine inspectors..... 3422
 Road supervisors..... 1625
 Secretary bureau of child and ani-
 mal protection..... 339
 Secretary of state..... 134
 School teachers..... 1078
 School trustees..... 1015
 Stallion registration board..... 3371
 State
 auditor 151
 board of charities and reforms 333
 board of health.....2448, 2656
 engineer1955, 1958

GENERAL INDEX.

REPORTS (Continued)

State (continued)	
examiners	210
officers, board of examiners to authorize printing	520
reports, size of type for	281- 283
treasurer, quarterly reports, publication of	187
Superintendent public instruction publication of	939 940
Superintendent state fisheries	3673
Supreme court, how distributed	384
Taxation officials—See Taxation	
Veterinary surgeon, state	3292
Warehousemen, annual report	3589

REPORTS OF DECISIONS OF THE SUPREME COURT

Bond of publisher	383
Contents of	379
Contract with publisher	381
Distribution of reports	384
Duties of reporters	379
Judges of supreme court to report decisions	378 383
Price of reports	381- 383
Publication of reports	380
Salary of reporters	378
Style of volumes	380
Title of reports	382

REPRESENTATION

In policies of insurance—See In- surance	8093- 8103
Inheritance by, when	7087
Principal by agent—See Agency.	7928- 7956

REPRESENTATION WORK

Mining claims, affidavit of per- formance	7368
--	------

REPRESENTATIVES

Apportionment of—See Legisla- tive Assembly	44- 47
--	--------

REPRESENTATIVES IN CONGRESS

Election of	826- 828
-----------------------	----------

REPRIEVES—See Pardons

REPUTATION

Facts which may be proved on trial	10531
Presumption of ownership from	10606
Proof of corporations by, in crimi- nal cases	11933, 11985

RES ADJUDICATA—See Judgments

RES GESTAE

What constitutes	10511
----------------------------	-------

RESCISSION

By buyer on breach of warranty	7624
Contracts may be rescinded, when extinguishes contract	8730 7564
for mistake, when adjudged	8731
how affected	7567
party may rescind, when	7565
party securing must do equity	8732

RESCISSION (Continued)

Contracts of persons of unsound mind	5684
Of agreements for novation	7463
Of ratification of act of agent	7944

RESCUES

Liability of sheriff	4784, 4785, 9216
When contempt	9698, 9908

RESCUES AND ESCAPES

Assisting prisoner to escape, pen- alty for	10870
Carrying into prison things in aid of	10871
Escapes from other than state prison	10868
state prison, attempts	10867
state prison, penalty for	10866
Expenses of trial for escape	10872
In time of insurrection	11292
Officers suffering convicts to es- cape, penalty for	10869
Receiving fees for service in ar- resting fugitives	10919
Rescuing prisoners, penalty for	10864
Retaking goods from custody of officer	10865

RESERVATIONS

Authority United States over	21
Right to explore lands, how de- termined for taxation	1999
Service of process on	21

RESERVE FUND

Assessment accident insurance com- panies	6241
Banks	6069
Bonds	6068
Life insurance companies	6280

RESERVE REQUIREMENTS

Fraternal benefit societies paying death benefits on lives of chil- dren	6341
--	------

RESERVOIRS

See Dams and Reservoirs	2658- 2671
Impounding and appropriation of waste waters authorized	7093
Interference with	11467
Land agent to locate for state	1829
Malicious destruction, punishment	11487
Violation of safety regulations	11280

RESIDENCE

Certain public officers at seat of government	413
District judges, where	8864
Executive residence	129
In state, required in divorce cases	5766
Justices of the peace, where	8865
Of child, parent may control	5850
ward, guardian may control	5880
wife, husband may control	5783
Restrictions on residence of public officers	415- 417
Rules for determining	33, 574

GENERAL INDEX.

RESIGNATIONS

Directors and officers of corporations	5941
Of public officers—See Public Officers	510- 517

RESISTANCE

After county declared in state of insurrection	11292
Lawful resistance, what constitutes	11633, 11634
Of process, criminal contempt.	10944
To	
commission of crime, by whom.	11632
execution of process	
calling militia	11657
contempt	11656
power of sheriff	11655
proclaiming county in insurrection	11666
officers	10825
public officers	10928

RESOLUTIONS

Of legislative assembly, when effective	92
---	----

RESPITES

Governor may grant	12247-12262
------------------------------	-------------

RESPONDENTS

Ruling against, review of.	9751
------------------------------------	------

RESTAURANTS

License	2539
Penalty for defrauding	7684
Possession of adulterated foods, prima facie evidence.	11247
Serving adulterated foods, notice.	11245, 11246
Use of oleomargarine, posting notice	11249

RESTORATION

Duty to restore when wrongfully acquired	7577
when deemed necessary.	7578
Of property extinguishes lien, when	8245

RESTRAINT

Degree allowed on arrests.	11752
Necessary, only permissible.	11613
Of insane person, use of force.	10980
Upon	
alienation, when contract void.	6704
marriage, when void.	6703, 7562
right to resort to legal proceedings, void	7558
trade	7559

RESTRAINT OF TRADE

Agreements between laborers excepted	10902
Article of commerce defined.	10901
Certain trusts and combinations forbidden	10901
Cumulative nature of act.	10907, 10911
Discrimination in sale price of commodities forbidden.	10908
in purchase price forbidden.	10904
Food, destruction of, forbidden.	10914
penalty for violation of act.	10915

RESTRAINT OF TRADE (Continued)

Investigation and action by attorney-general	10905, 10909
Penalty for violation of act.	10906, 10910
Persons not excused from testifying	10903
Pooling by public warehouses forbidden	10912
penalty for violation of act.	10913
Unfair discrimination in purchase of commodities forbidden.	10904

RETAKING—See Escapes

RETIREMENT

Of jury—See Juries.	12009-12016
-----------------------------	-------------

RETRIAL

When jury discharged without verdict	74015
--	-------

RETROACTIVE

Laws, when retroactive.	3
---------------------------------	---

RETURN

Election return—See Elections	
In	
certiorari	9839
when defective	9844
mandamus	9850, 9852
prohibition	9863, 9864
Of	
sheriff, on undertaking on bail.	9207
summons	9110
in justices' courts.	9632
sheriff to make and file.	9124
warrants of arrest in contempt proceedings	9915
writ of attachment.	9287
writ of execution.	9419

REVENUE

See Taxation	1996- 2443
Obstructing officers collecting.	11322
Refusal of officers to permit inspection of books.	11330

REVERSAL

Argument necessary on appeals to supreme court	12122
Defendant discharged on reversal of judgment	12129
Errors as grounds for, to be excepted to	11969

REVERSIONS

Defined	6730
Reversioners, maintenance of relations, when	6768

REVIEW

See also Appeals—See also Writ of Review	9836- 9846
Costs on, other than by appeal.	9796
Extent of, in certiorari.	9843
Rulings against respondents.	9751
Supreme court may review what.	9750, 9751

GENERAL INDEX.

REVISED CODES OF 1921

See Codes	5539- 5544
Publication and distribution—See	
Codes	5547- 5553

REVISION

Contracts may be revised, when.	8726
presumption as to intent.....	8727
principles of revision.....	8728
revised contract, enforcement of	8729

REVIVAL

Of judgments	
in favor of execution purchaser	9450

REVOCATION

See Contracts	7494, 7495
By power of attorney must be	
recorded	6937
Notaries' commissions	398
Of	
agency, by principal	7975
continuing guaranty	8187
gift	6884
gift in view of death.....	6887
instrument, when may be exe-	
cuted	6941
proposal, how made.....	7495
proposal, when may be made...	7494
will—See Wills	6995- 7007

REVOLVING APPROPRIATIONS

Creation for department of agri-	
culture	3645
Creation for university of Mon-	
tana	194, 195

REWARDS

Finder of property entitled to...	7688
For arrest of fugitives from state	
industrial school	12512
For fugitives from justice, when	
offered	12415
Offering by county commissioners	4483
Payment of reward, how made...	12417
Power of governor to offer.....	124
Standing reward, when offered...	12416

RICHLAND COUNTY

Boundaries and county seat.....	4344
---------------------------------	------

RIGHT OF ACTION

By wife and others for damages	
from sale of intoxicating	
liquors	11065

RIGHT-OF-WAY

For construction of irrigating	
ditches	7110
For highways—See Highways 1604-	1804
Grant by state land board...1850,	1851
Of owners of mines—See Mines	
and Mining.....7382-	7393
Of Railroads—See Railroads	
Taken by eminent domain.....	9936

RIGHTS

Citizens of other states.....	40
Electors	39
General personal rights.....	5688
Husband and wife—See Husband	
and Wife	5782- 5812

RIGHTS (Continued)

Minors, how enforced	5687
Of defendant in criminal action..	11611
Of personal relations, protection..	5693
Of protection	34
State over persons.....	26
To use force, when.....	5694

RIOTS

Armed forces to obey whom.....	11662
Arrest of rioters upon refusal to	
disperse	11659
Conduct of troops, how.....	11664
Definition	11285
Endeavors to disperse without	
danger to life.....	11665
Execution of process, militia or-	
dered out to aid in, when... 11657	
Failure to disperse, misdemeanor.	11290
Governor, duty to call militia,	
when	11657
Governor may declare county in	
state of insurrection.....	11666
revocation of proclamation, when	11667
Jurisdiction of justices' courts...	
.	8842, 11630
Liability of cities and towns for	5086
Magistrate refusing to disperse	
rioters	11291
Militia firing upon mob	
commanding officer to use dis-	
cretion	11664
regulations	11664
to obey	
call of governor.....	11661
orders of civil officers, when..	11662
sheriff, when	11663
Militia, who may order out.....	11660
commanding officers and troops	
to obey order	11661, 11662
Names of persons resisting, certi-	
fied to court.....	11656
Officers to command dispersal of	
rioters	11658
Proclaiming county in insurrection	
.	11666, 11667
Punishment	11286
Remaining after order to disperse	11290
Sheriff, power in overcoming re-	
sistance	11655
Sheriff to have charge of national	
guard, when	11663
Suppression	11635
Time for commencing action.....	9034
When governor may call out milita	11660

RIVERS

See also Water and Water Rights	
.	7093- 7135
See also Waters	
Boundaries by	10683
Obstruction, when navigable....	11489
Removal of banks by.....	6821
Venue of certain actions.....	9094

ROAD BUILDER

Appointment and duties.....	1622
-----------------------------	------

ROAD FUND

Transfer unused portion to school	
districts	1206

GENERAL INDEX.

ROAD SUPERVISOR

Appointment and powers—See
Highways1622- 1631

ROAD TAX

See Highways1617- 1620
In cities and towns5219- 5223
In special road districts 1663

ROADS

See Highways1604- 1804
Boundaries by 10683
Private, how opened 9955
Referees in partition suits may
lay out 9534

ROBBERY

Definition of term 10973
Element of fear 10974
Moving pictures of train robberies
prohibited 11567
Penalty 10975
Railroads, etc., standing rewards. 12416
Taking property from one county
to another, jurisdiction 11712
Verdict, value of property 12026

ROD

Yards in 4215

ROLLING-STOCK

Railroads, sales and leases of—See
Railroads6533- 6539

ROOMING-HOUSES

Penalty for defrauding 11579

ROOMS

In county jails 12469
Furnishing for state officers 266
To be provided for jury's use . . . 12009

ROOSEVELT COUNTY

Boundaries and county seat 4345

ROSEBUD COUNTY

Boundaries and county seat 4346

ROUT

Defined 11287
Jurisdiction of justices' courts . . 11630
Magistrate neglecting to disperse. 11291
Punishment 11289
Remaining after order to disperse 11290

ROYALTIES

Oil royalties from United States,
how distributed 1211
statement to be filed by county
superintendent 1212

RULES OF COURT

Courts of record may make
contents of 8845
judges guilty of contempt, when 8845
When effective 8846

RULES OF PLEADING

See Pleading

RUNNING AT LARGE

Certain animals prohibited—See
Livestock3390- 3406
Diseased animals prohibited 3287

RUNNING POLICY

Defined 8118

RURAL IMPROVEMENT DISTRICTS

Action to recover taxes 4597
Additional assessments, when levied 4588
Apportionment of costs 4584
Assessment federal property omitted 4585
Assessment of property, procedure 4584
Assessments
additional, when levied 4588
collection, when erroneous 4596
relief of 4596

Bids

contents of 4580
opening and consideration 4580

Board of county commissioners
defined 4599

Bond of contractor or owners 4582

Bonds

call for payment 4593
interest 4593
judgment and terms of 4593
redemption 4593
registry 4593

Change in maintenance districts. 4592

Clerk defined 4599

Contract payable in warrants . . . 4594
conversion into cash, when 4594

Contractor, bond of 4582

Contractor, reletting on delinquency of 4581
suits against 4581

Correction of erroneous assessments 4596

Costs, how apportioned 4584

County clerk to post notices 4601

County treasurer
defined 4599
to collect assessments 4595

Creation authorized 4574

Damages
supplemental resolution to cover
to be added to cost, when 4588

Definition of terms 4599

Effect of error 4601

Effect of misnomer or mistake . . . 4591

Engineer defined 4599

Extension when cost exceeds one-half assessed valuation 4576

Federal property omitted from
assessment 4585

Improvement defined 4599

Incidental expense defined 4599

Incidental expenses as costs of improvement 4589

engineer to certify to county
clerk 4589

duty of county clerk 4589

Jurisdiction attaches, when 4578

GENERAL INDEX.

RURAL IMPROVEMENT DISTRICTS (Continued)

Jurisdiction of board preserved on adjournment	4600
notice of hearing on adjournment	4600
Lien of assessments	4590
Maintenance of improvements	
adoption of resolution	4592
change in maintenance districts	4592
Mistake, effect of	4591
Mistake not to vitiate liens	4598
Municipality defined	4599
Notice inviting proposals	
opening and consideration of bids	4580
publication and posting	4580
readvertisement	4580
Notice of hearing on adjournment	4600
Notice of irregularities	4583
consideration of objections	4583
Notices	
how published	4599
proof of publication	4599
Objections	4574
consideration of	4583
Opening and consideration of bids	4580
Paved defined	4599
Payment tax under protest	4597
Protests	
hearing on	4577
how made	4577
sufficiency, how determined	4577
Publication of notices, how made	4599
Purposes for which created	4574
Quarter block defined	4599
Railroads, payment costs improvements by	4584
Readvertisement, when	4580
Reletting on delinquency of contractor	4581
Resolution creating	4578
Resolution of intention	
contents	4575
mailing and notice	4575
passage	4575
publication	4575
Rules, property, how assessed	4584
Special assessments, lien on property	4590
Street defined	4599
Street intersection defined	4599
Sufficiency of subsequent resolutions	4579
Tax-levy	
action to recover	4597
passage of resolution	4586
payment tax under protest	4597
resolution assessing	4587
resolution, contents and objections	4587
term of years	4586
Transfer of management to city or town	4602
authority of city to levy tax	4603
Warrants—See subtitle bonds	4593
Work defined	4599

RURAL INSURANCE COMPANIES

See Insurance Corporations..6185- 6205

RURAL SCHOOL DISTRICTS

See Schools, Public.....1040- 1048

EYE

Pounds in bushel..... 4226

SABLE

Open season for..... 3704

SABOTAGE

Defined 10741
Punishment 10742

SACCHARIN

Disposal of fines..... 2599
Food defined..... 2598
Penalty for violation of act..... 2599
Sale of food products containing, prohibited 2597

SAFETY DEPOSITS

Banks may conduct..... 6049

SAFETY LAWS

See Labor
See Mines and Mining
See Workmen's Compensation Act 3012- 3033
Duty of railroad commission to enforce 3819, 3820

SAGE HEN

Limit of bag 3701
Open season for..... 3701

SALARIES

See section 441 and note for list of state officers and salaries
See also Fees
Attorney-general and assistants.. . . . 200- 205
Chairman state board hail insurance 363
Chief clerk to commissioner of insurance 165
City officers
 alderman 5019
 attorney 5023
 change in, when forbidden..... 5026
 chief of police.....5024, 5107
 clerk 5025
 mayor 5019
 other officers 5028
 police judge 5020
 treasurer 5022
Classification of counties for purpose of payment.....4741, 4866
Commissioner of agriculture..... 3557
Commissioners of deeds, fees of.. 4915
Constable, fees of.....4932
Contests, salary withheld pending 451, 452
Coroner, fees of 4922
County commissioners to fix pay of deputies 4874

GENERAL INDEX.

SALARIES (Continued)

County officers	
classification and statement of salaries	4867- 4871
deputies and assistants	
classification and statement of salaries	4873
salaries paid monthly out of contingent fund	4872
enumeration of	4867- 4871
how paid	4868
what officers to receive fees for their own use	4865
County surveyor, fees of	4921
Deputies to file affidavits before payment	4891
Deputy commissioner of insurance	163
Deputy superintendent of schools	975
District	
court stenographers	8931- 8933
judges	8814
restrictions on payment of	8815
Duplicate fee receipts to be filed before payment of	4890
Election officers	591
Employees of legislature	76, 78
Fire marshal, state	2739
Folio defined	4899
Governor	128
How paid	442, 4868
Jurors	
grand and trial, fees of	4933, 4934
in courts not of record	4935
Justices of peace in certain townships	4929
disposal of fees	4930
Justices of supreme court	8796
Legislature, members of	74
Liens for—See Liens	8351- 8358
Lieutenant-governor	131- 132
Limitations of act	4950
Not to be paid pending contests of office	451
procedure to withhold	452
Notaries public	4914
Official receipts to be issued for	4895
Penalty for	
failure to pay over	4907
false oath	4906
false report	4908
Police department, time for commencing actions	9036, 9037
President of senate	75
Public administrator, fees of	4923
School officers—See Schools, Public, subtitle salaries	
Sheriff, fees of	4916
Sheriff, mileage and expenses	4885
penalty for false representation concerning board of prisoners	4909
Speaker of house	75
State board of examiners to fix, when	273
State officers	
all state officers and salaries	441
See also particulars officers	
accountant	309, 437

SALARIES (Continued)

State officers (continued)	
adjutant-general, and employees	440
assistant secretary Carey land act board	1961
auditor, state	436
employees of	440
capitol employees	439
chairman board of hail insurance	363
chairman industrial accident board	2819
child and animal protection, employees	440
clerk of	
board of examiners	437
consolidated boards	437
supreme court	375, 436
engineer, state	1958
epidemiologist, state	2542
examiner, state	218, 438
additional deputy	220
assistants to	219
clerk to	219, 437
fire marshal	2739
governor, and employees	128, 440
governor's private secretary	438
health, state board of	440
highway commissioner, and assistant	1783
law librarian, and employees	440
historical	440
marshal of supreme court	368
mine inspector	440
purchasing agent, state	284
railroad commission and employees	440, 3784- 3788
register and deputy register of state lands	1821
secretary of state	436
employees	440
secretary of, state board of health	2446
state land department employees	440
superintendent of public instruction	436
employees	440
superintendent of schools	4869- 4871
superintendent state fisheries	3665
supreme court employees	440
treasurer, state	436
employees	440
veterinarian, state, employees	440
State officers payable monthly	442
Superintendent of banks	6070
Time for payment	442
Traveling expenses, rules governing	443
Witnesses	
at coroner's inquests	4942
in courts not of record	4941, 4942
in courts of record	4936

SALES

Agreements for sale, classes of	7583
for usual covenants includes what	7589
form of covenants	7590
to buy defined	7585

GENERAL INDEX.

SALES (Continued)

Agreements (continued)	
to sell and buy defined.....	7586
to sell defined.....	7584
to sell, how binding.....	7588
Auction sales	
auctioneer's memorandum, effect of	7631
authority of auctioneer.....	7976
defined	7625
rights of buyer.....	7629
sale under written conditions..	7628
sale without reserve.....	7629
seller's employment of bidder a fraud, when	7630
when complete	7626
withdrawal of bid.....	7627
Baggage by innkeepers.....	7683
by railroads	7665-7672
Bulk sales—See Bulk Sales..	8607-8611
Buyer acquires better title than seller, when	6881
rescission on breach of warranty	7624
right of inspection.....	7623
rights and duties.....	7622-7624
Buyer's directions to be followed, when	7604
Conditional sale contracts	
default of vendee, sale of property	7597
filing of	7594
recording of	7595
release of	7596
Conditional sales of railroad equipment and rolling-stock—See Railroads	6533-6539
Contracts for sale of personal property valid, when.....	7591
Contracts in writing, when.....	7519
Covenants in agreements to sell real property	7590
Damages on breach of agreements to sell—See Damages...	8672-8677
Defined	7581
Delivery	
on demand	7600
where made	7601
within reasonable hours.....	7605
Escheated estates	9961
Expenses of transportation.....	7602
Explosives	2786-2815
Fakers defined, and punishment..	11425
Fraudulent	11432
Homesteads, when made.....	10153
In probate matters—See Probate Proceedings	
Inspection of goods by buyer....	7623
Manufacturing contracts, regulation of	7592
Notice of election, duty to give..	7603
Of	
animals at public auction to be recorded	11541
animals with false pedigree....	11418
land, married woman, false pretense by	11413
land twice	11412
mines, under false pretenses....	11419
mortgaged property, to defraud	11416

SALES (Continued)

Of (continued)	
packages falsely stamped as to weight	11430
property received for transportation, penalty	11463
Perishable property, by depositary, when	7652
Personal property	
lien of seller	8381
writing, when necessary	7591
Price, when to be paid.....	7622
Property	
by finder, when.....	7690
by guardians—See Guardianship	10428-10443
extinguishes lien, when.....	8242
for taxation—See Taxation.2189-	2199
of corporation, procedure for...	6004
resolution, adoption and filing on execution—See Executions..	9432-9441
Real property	
contracts in writing, when.7519,	7593
effect of agreement to sell....	7588
usual common law covenants..	7589
Rolling-stock of railroads—See Railroads	6533-6539
Seller may resell, when.....	7599
to act as depositary, when.....	7598
Specific performance of agreements, when not enforceable..	8724
State lands—See State Lands	
Statute of frauds—See Frauds, Statute of	
Subject of sale.....	7582
Thing in danger of perishing....	7652
Title on sales passes, when.....	6879
Title reservation contracts, sale on default of vendee.....	7597
Title reservation contracts to be filed	7594
duty of recorder.....	7595
release of obligation.....	7596
Transfer of title under executory agreement, when	6880
Transfers by, how regulated....	6878
Value, how estimated on breach of contract—See Damages...	8699-8706
Warranty on—See Warranty.7606-	7621
breach of warranty, damages for	8678-8680
right of buyer on breach of...	7624
What may be subject of contract.	7587
Written contract, when necessary—See Frauds, Statute of	

SALES IN BULK

See Bulk Sales8607- 8611

SALOONS

See Intoxicating Liquors...11048-11133

SALT

Pounds in bushel..... 4226

SAMPLES

Assaying, cheats..... 11420
 Making false samples of ore..... 11421
 Of ore—See Mines and Mining..
 3436- 3441

GENERAL INDEX.

SAMPLES (Continued)		
Warranty on sale by.....	7609	
SAMPLING		
Grain by commissioner of agriculture	3591	
SANDERS COUNTY		
Boundaries and county seat.....	4347	
SANITATION		
Dairy products—See Dairies and Dairy Products		
regulation by department of agriculture, labor and industry—See Agriculture, Labor and Industry, Department of	3569- 3572	
Health matters—See Health		
Hotels—See Hotels.....	2485- 2498	
Slaughter-houses	2584, 3267	
Tenement and apartment-houses.. . . .	2499- 2502	
SANITY —See Insanity		
SATISFACTION		
Chattel mortgages	8289	
Defined	7458	
Mortgage of real estate—See Mortgages	8271	
Mortgages received by counties under drought relief act.....	8274	
Of judgment, acknowledgment, who may take.....	8875	
attorney may make acknowledgment	8974	
from attached property, how made	9276	
how made	9414	
Railroad lease or mortgage.....	6536	
Real estate mortgages—See Mortgages	8268- 8272	
SAVINGS BANKS		
See Banks and Banking.....	6014- 6109	
Officers prohibited from overdrawing account	11442	
SAW-LOGS —See Logs		
SAW-MILLS		
Dumping refuse into streams forbidden	3718	
SCAB		
See Livestock.....	11533-11540	
SCAFFOLDS		
See Floors and Scaffolds....	2672- 2676	
SCALES		
Erection on loading platforms... .	3825	
Hay scales, inspection of.....	4242	
Inspection of—See Weights and Measures	4240- 4243	
track scales	4245	
Public scales—See Counties..	4471- 4476	
Test by commissioner of agriculture	3575, 3576	
SCHOOL DISTRICTS		
See Schools, Public, subtitle school districts		
SCHOOL FUNDS —See Funds		
SCHOOL LANDS		
See State Lands.....	1805- 1948	
SCHOOL OF MINES		
See Mines, State School of....	878- 888	
SCHOOL TRUSTEE		
See also Schools, Public		
Bribery of, forbidden.....	10862	
SCHOOLS, PUBLIC		
Abandonment of school districts, when	970	
Abuse of teachers, punishment for	1082	
Acceptance act of congress allotment lands Crow Indians.1806, Crow Indian children may attend schools	1807 1808	
Advertisement contracts, when necessary	1016	
Age of school attendance.....	1956	
Americanization schools		
boards of trustees may combine to establish	1320	
course of study, approval by superintendent	1319	
establishment	1318	
expense of maintenance.....	1321	
powers of boards of trustees... .	1322	
Annual financial statement		
cost of publication.....	978	
penalty for noncompliance with act	979	
publication of	976	
school trustees to furnish data.	977	
Apportionment of school moneys, how made	1204	
Arbor day		
date of	1068	
exercises on	1069	
proclamation of	3634	
superintendent of public instruction to prescribe exercises	1070	
Attendance, regulation of....	1135- 1140	
Bond issue for county high schools		
exception	1277	
procedure to submit question.. . . .	1276	
tax-levy to pay bonds and interest	1276	
term of bonds, how fixed.....	1276	
Bonds		
county high school bonds		
division of proceeds, how....	1276	
for what purposes issued.....	1276	
submission of question to electors	1276	
taxation for payment of....	1276	
county high school funding bonds		
advertisement and sale of bonds	1292	
authority county commissioners to issue	1286	
contents of resolution.....	1289	
denomination, form and time of payment of bonds.....	1290	
emergency clause	1293	

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Bonds (continued)	
county high school funding bonds (continued)	
issuance warrants in excess available funds	1267
proceeds of sale, how used	1292
rate of interest, how fixed	1290
registration of bonds	1290
tax-levy to pay	1291
when to be issued	1286
funding bonds for district and high schools for indebtedness incurred before July 1, 1921	
	1244-1251
advertisement and sale	1250
authority to issue warrants in excess of funds or levy	1245
conditions governing issuance	1246
emergency clause	1250
issuance, when authorized	1244
registration of bonds	1248
rejection of bids	1250
resolution, contents and adoption	1247
tax-levy for redemption	1249
term of bonds	1248
issuance for school building, land and equipment	
additional bonds, submission of question	1224
county treasurer to pay interest, how	1231
election ballots	1225
election on issuance of additional bonds	1224
elections, notice and procedure	1224
general laws applicable	1234
liability of district on	1227
not to be sold for less than par	1226
notice of election	1224
notice of sale	1226
penalty for misappropriation of funds	1233
printing bonds	1232
procedure when purchased by state land board	1226
redemption, notice to bondholders	1230
resolution for issuance	1225
sinking fund, investment of	1229
submission of question	1224
tax for redemption	1229
tax, sinking fund	1228
trustees may reject bids	1226
issuance to pay interest-bearing warrants of new district	1032
number of signers necessary on petition	1252
qualification of voters	1253
refunding bonds	
advertisement and sale	1235
disposal of proceeds	1236
for what purposes issued	1235
interest and terms	1235
payment of interest	1240

SCHOOLS, PUBLIC (Continued)

Bonds (continued)	
refunding bonds (continued)	
penalty for misappropriation of funds	1242
presentation of bonds	1241
redemption	1239
registry	1235
repayment of loans on invalid bonds	1243
responsibility of district for signatures	1237
tax-levy for interest and sinking fund	1238
rural school district bonds	
procedure for issuance	1044
second-class districts, procedure for issuance	1046
scope of act	1254
taxpayers only to vote at elections for issuance	1253
Books, pupils to be furnished with, when	1015
See also subtitle state text book commission	1187-1200
Boundaries	
how changed	1033
record and report of school district	968
Buildings, unsafe exits	11266
Census	
clerk to make annually	1051
copy to be transmitted to bureau of labor and industry	971
procedure, compensation	1051
Certain fines to school fund	5723
Certificates	
of qualifications of teachers	1074
of teachers—See subtitle examination of teachers	
state and life, regulation of	837-840
Charts, maps and apparatus, limitations on purchase	1019
City superintendent of schools—See subtitle superintendent of schools, city	
	981-984
Civic instruction	1079
Clerk of school district	
board to fix compensation	1015
duties generally	1049
report of expenditures	1052
school census, duty to make	1051
to keep accounts and books	1050
to make annual school census	1051
penalty for failure to report census	1051
vacancy, how filled	1000
Clothing and medical aid provided, when	1015
Compulsory attendance	
age and schooling certificate, when issued	1136
cases of truancy, how and by whom reported	1135
county superintendent may excuse, when	1135
employment school children during school term forbidden	1136

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Compulsory attendance (continued)	
pauper children, provisions concerning	1140
truant officers	
appointment and duties	1137
records	1137
to investigate truancy	1139
when required	1135
Consolidation of districts, procedure	1034
Consolidation superintendent of city schools and principal county high schools	
compensation	1295
controversies, how settled	1299
existing contracts excepted	1296
general school laws applicable	1301
in what cases authorized	1294
qualifications	1295
salaries, how paid	1298
superintendent of city and high schools, when appointed	1295
teachers of joint subjects, when appointed	1297
voting by joint boards, how conducted	1300
Contracts	
advertising certain contracts	1016
interest of trustees in, prohibited	1016
Corporal punishment	
how inflicted	1081
undue punishment prohibited	1084
County	
assessor to report assessed valuation of school districts	1215
attorney legal adviser to officers	1328
board educational examiners	1090-1094
high schools—See subtitle high schools	
superintendent of schools—See subtitle superintendent of schools, county	
unit system, adoption of	1042
Courses of study in public schools	1053, 1054
Crow Indian children may attend	1808
Day school defined	1059
Denominational teachings forbidden	1055
Diplomas, issuance of	836, 854
Discipline	1133
Diseases, instruction in prevention of	1073
Dismissal of teachers, appeals	1085
District high schools, discontinuance	1276
Districts—See subtitle school districts	
Disturbance of schools, penalty for	1083
Disturbing school or school meeting	10766
Duty to enforce act concerning secret fraternities	1134

SCHOOLS, PUBLIC (Continued)

Education, state board of—See Education, State Board of	
Election of trustees—See subtitle school trustees	
Election on building or removal of school-houses	1015
Employment of children, when forbidden	1135-1140
Examination of teachers	
certificates	
fees for	1097
first grade, how secured	1096
higher grade, how secured	1101
issuance of temporary, when	1096
principals and high school teachers	1104
professional, how secured	1096
renewal of	1100
revocation of	1099
second grade, how secured	1096
superintendent public instruction to prepare questions	944
temporary, when granted	1096
university credits acknowledged	1102
validation and renewal of existing certificates	1103
educational examiners, county board of	
compensation	1095
composition and term	1092
duties	1094
examinations, how and when held by	1090
qualifications	1093
educational examiners, state board of	
compensation	1088
creation, composition and term	1088
duties	1088
grading of papers	1091
state teachers' certificate fund	1089
vacancies	1088
examinations conducted by county board of examiners	1090
grading of papers	1090, 1091
preparation of questions	1090
procedure when difficult to attend county seat	1090
fees for certificate	1097
recanvass of papers on appeal	1098
renewal of certificates	1100
revocation of certificates for cause	1099
Expulsion of pupils, power of trustees	1015
Finance	
See also subtitle bonds	
apportionment of school moneys by county superintendent of schools	1204
building and furnishing fund	964
how used	1208
warrants, when drawn on	1210
common school funds, income, how invested	1209
	1910b

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Finance (continued)	
common school levy.....	1202
duty of	
clerk of district court to re-	
port fines collected.....	1216
county assessor to make an-	
ual report of valuation....	1215
county treasurer regarding	
school funds.....	1213
county treasurer to make an-	
ual financial report.....	1214
justice of peace to report fines	
collected	1217
election on taxation in excess of	
ten mills.....	1219
challenge, oath of electors,	
false swearing.....	1223
conduct of election.....	1222
form and marking of ballot.	
.....	1222
notice of election.....	1220
purpose of levy to be stated..	
.....	1221
election on transfer of certain	
funds	1210
fines, report of, to county super-	
intendent	1216-1218
funds	
fines	
driving cattle over an-	
other's land.....	11227
driving cattle through state	
without brand.....	11548
trespass on state lands....	
.....	11336, 11507
violation of election laws..	10771
Indian children, when included	
in apportionment list.....	1204
issuance of warrants in anti-	
cipation collections.....	964
moneys from fines and forfeit-	
ures	1202
oil and gas royalties	
duty county superintendent..	1212
how distributed.....	1211
penalty for officers failing to	
make reports.....	1218
permanent school fund, compo-	
sition of.....	1201
how invested.....	1910a
purposes for which money may	
be used.....	1205
road fund, transfer of.....	1206
school fund, composition of....	1201
school fund income, how in-	
vested	1910b
special school tax, when, how	
and by whom levied.....	1203
statement to be filed by county	
superintendents.....	1212
town lots, proceeds of sale....	1207
use for general school pur-	
poses, when.....	1210
warrants on.....	1209
transfer on unused road funds..	1206
certificate of road supervisor	1206
warrants for building and fur-	
nishing school-houses.....	1209
warrants, payment, when with-	
held	965

SCHOOLS, PUBLIC (Continued)

Fines and penalties, how disposed	
of	1324
Fire dangers	
duties of commissioner of in-	
surance	1072
instruction in.....	1072
penalty for failure to comply...	1072
Fire-drills, instruction in.....	1071
Fire-escapes for buildings — See	
Fire-escapes	2779-2785
Fire-gongs to be provided.....	1071
penalty for failure to comply...	1071
Flag, trustees to provide.....	1015
Fraternities prohibited, when....	1134
Free kindergartens, establishment	
of	1057
Free text-books — See subtitle	
state text-book commission	
Funding bonds—See subtitle bonds	
.....	1244-1251
Funds—See subtitle bonds and	
subtitle finance	
Gender of words used in school law	1323
High school normal training	
courses	
appropriation for.....	1310a
conditions governing apportion-	
ment	1310b
county superintendent to visit	
and report.....	1306
establishment of.....	1302
instructors, approval by state	
superintendent	1304
instructors to have special train-	
ing, when.....	1304
junior college course require-	
ments	1307
library	1305
normal training students de-	
fined	1306
payments to county treasurer	
for	1310c
state superintendent to pre-	
scribe course.....	1303
state superintendent to pre-	
scribe rules.....	1306
teachers' second-grade certifi-	
cates issued to graduates....	1310
tuition free, when.....	1308
use of common school fund to	
be authorized by electors....	1309
High school supervisor, appoint-	
ment of.....	933
High school trustees may issue	
warrants in excess available	
funds, when.....	1287
High schools	
board of trustees	
admission of pupils.....	1271
appointment, composition and	
term	1266, 1267
compensation	1272
employment of faculty by...	1271
meetings and quorum.....	1269
mileage of.....	1272
officers	1270
powers and duties.....	1271
term	1267

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

High schools (continued)	
vacancies, how filled.....	1268
bond issue for buildings and equipment, procedure on...	1276
payment of.....	1278
submission to electors, procedure	1276
counties may establish.....	1262
diplomas to admit, where.....	1274
district high schools may be discontinued, when.....	1276
districts maintaining high schools to share in high school moneys	1280
election on establishment	
ballots and voting.....	1264
board of trustees, appointment of.....	1265
canvass of returns.....	1265
tie vote, procedure on.....	1265
eligibility of pupils.....	1282
establishment of.....	1262
free attendance for what pupils	
funding bonds for floating indebtedness	1286
maintenance estimates to include what.....	1279
meetings of board	
quorum	1269
when held.....	1269
petition for establishment and election	1263
power of trustees to establish..	1058
principal may make rules.....	1273
school trustees may establish, when	1009
secretary, compensation of....	1272
selection of school-house site...	1271
special tax for maintenance of certain high school classes...	1281
supervisor, appointment of....	933
tax-levy to support.....	1275
teachers, certificate required from	1104
traveling expenses, payment, when and how authorized....	443
validation of certain bond issues	
validation of certain prior acts	1283, 1284
who entitled to attend.....	1282
Holidays	
defined for school purposes....	1062
exception from general law.....	11
exercises to be conducted on...	1062
school not in session, when....	1062
teachers not to work on.....	1060
what are.....	1062
Industrial schools	
costs of prosecution	
how paid.....	1170
security for costs not required	1170
employment and regulation of teachers	1159
establishment, where.....	1157
incorrigible children, commitment to reform school.....	1164
juvenile disorderly persons, commitment to, procedure...1171,	1172

SCHOOLS, PUBLIC (Continued)

Industrial schools (continued)	
parents to provide clothing....	1160
parole, condition of.....	1161
paroled children	
recommitment of.....	1163
reports concerning.....	1162
penalties and fines for neglect of duty	1167
counsel to be employed, when	1167
fines, disposal of.....	1167
proceedings against corporations	1167
penalties for repeated violations of act.....	1168
trial by jury.....	1168
purchase of site and building..	1158
receiving pupils from other districts	1166
religious training, how given...	1159
rules and regulations.....	1161
schools in small districts.....	1165
tax-levy authorized.....	1169
trustees to provide sufficient accommodations	1169
Industrial training—See subtitle manual and industrial training	
Injury to houses.....	11506
Inspection by state board of health	2453
Institutes—See subtitle teachers' institutes and summer schools	
Joint districts, formation of.1035-	1038
Judgments, liability of school trustees on.....	1017
Juvenile disorderly persons, commitment to industrial school	1165, 1171, 1172
Kindergarten	
free, established.....	1057
qualifications of teachers.....	1057
Legal holidays—See subtitle holidays	
Liability of trustees on judgments	1017
Libraries	
books, selection of, duty of county superintendent.....	1186
county superintendent of schools to supervise.....	962
libraries, as branches of county free libraries.....	4570
fines, delivery to county free library	4571
library fund	
composition in districts of first and second classes....	1183
composition in districts of third class.....	1182
creation and expenditure....	1181
location and control of.....	1184
reports	1185
rules, responsibility of trustees	1185
superintendent of public instruction, duties concerning.....	946
Maintenance in isolated sections.	1039
See subtitle rural school districts	
Manual and industrial training buildings and equipment, how provided	1260

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Manual and industrial training (continued)	
character of instruction.....	1256
course of study to provide what establishment, course of study..	1257
in what districts maintained...	1255
payment from state treasury..	1260
reports	1255
schools not up to standard to receive no state aid.....	1261
special courses in districts with population over ten thousand.	1259
support from general school fund.....	1260
teachers, qualifications of.....	1258
Maps and charts, limitation on purchase of.....	1019
Medical aid provided, when.....	1015
Meetings of school board, when held	1006
Money—See subtitle finance	
Month, school, defined.....	1060
Moral and civic instruction to be given	1079
New school districts—See subtitle school districts	
Night schools, organization of...	1011
Normal training courses—See subtitle high school normal training courses	
Normal training required for teacher's certificate.....	1086
Nurses, employment of.....	2505
Oath of office of school officials...	1327
Oath of office of school trustees..	997
Offers of bribes to school officers and teachers.....	10862
Officers of school not to act as agents for what.....	1326
Oil and gas royalties, how distributed	1211, 1212
Outhouses to be provided.....	1015
Parents, duty to send children to school.....	1135-1140
Part-time schools	
attendance at private school in lieu of.....	1153
census to be taken.....	1155
report of.....	1155
character of work.....	1142
eligibility of children for admission	1143
employers, duty to comply with act	1150
penalty	1150
enforcement of act.....	1151
established for employed children	1141
excusing establishment of.....	1144
expense, how reimbursed.....	1152
first-class districts to maintain.	1154
high schools to establish.....	1154
hours, regular employment children, how governed.....	1147
officers charged with enforcement of act.....	1151
organization, when excused....	1144

SCHOOLS, PUBLIC (Continued)

Part-time schools (continued)	
parents to send children to, when	1148
penalty for failure to send children to	1149
for employers.....	1150
private school attendance in lieu of.....	1153
reimbursement for expenditures	1152
rules of state board to govern..	1146
school census and report.....	1155
scope of act.....	1156
sessions, length of.....	1145
what children must attend....	1143
Patriotism, duty to teach.....	1079
Pauper children, relief to be afforded to facilitate attendance	1140
Penalties for violation of school law	1329
Penalty for acting as agents....	1326
Penalty for undue punishment....	1084
Pensions—See subtitle teachers' retirement salary fund	
Permanent land grant funds, how invested	1910a
Pioneer day	
designation of.....	1063
essays to be deposited, where..	1066
exercise in schools.....	1064-1067
pioneer medal.....	1065
Poor children, county to aid, when	1140
Prevention of communicable diseases to be taught.....	1073
penalty for failure to teach....	1073
Principal and high school teachers' certificates.....	1104
Printing and binding, how done..	1325
Printing school laws.....	938
Public schools	
courses of study in.....	1053
defined	1053
who may attend.....	1056
Pupils	
age of.....	1056
discipline, suspension and expulsion	1133
punishment, how inflicted..	1081, 1084
transportation of.....	1010
Qualifications of electors at school elections	1002
Records, penalty for mutilating and withholding	1018
Refunding bonds—See subtitle bonds	
Reports	
annual financial of county treasurer	1214
annual, of county assessor concerning assessed valuation...	1215
annual, of superintendent of public instruction.....	939
by clerk of school district....	1052
of clerk of court as to fines collected	1216
school trustees.....	1015
teachers	1078

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Retirement salary fund—See sub- title teachers' retirement sal- ary fund	
Revocation of teachers' certifi- cates for cause.....	1099
Royalties from United States, how distributed	1211
Rural school districts	
bonds, authority to issue.....	1044
county unit system	
elections, registration and voting	1042
limitation on second election.	1042
petitions for adoption.....	1042
trustees, appointment of.....	1042
definition of terms.....	1040
dissolution, procedure.....	1048
how formed.....	1041
how subdivided.....	1041
second-class districts	
bonds of.....	1046
creation of.....	1046
indebtedness, apportionment of	1046
tax to pay warrants.....	1046
warrants for indebtedness..	1046
sinking fund for third class dis- tricts	1045
supervisor, appointment of.....	933
third-class districts sinking fund	1045
assumption of indebtedness..	1045
trustees	
annual meeting of.....	1047
bonds	
power to issue.....	1044
submission of question to electors	1044
budget, preparation of.....	1044
compensation	1047
elections, judges, canvassing of votes.....	1043
failure to attend meetings..	1047
nomination of.....	1043
oath and term of office.....	1043
officers	1047
other meetings.....	1047
powers and duties of.....	1044
qualifications	1043
taxation, certification of.....	1044
vacancies	1043
unit for purpose of taxation..	1041
Salaries	
city superintendent.....	981
clerk to superintendent of pub- lic instruction.....	933
deputy and clerk to county su- perintendent	975
deputy to superintendent of public instruction.....	933
high school supervisor.....	933
rural school supervisor.....	933
superintendent of public in- struction	949
School day defined.....	1059
School districts	
body corporate.....	1022

SCHOOLS, PUBLIC (Continued)

School districts (continued)	
bonds not required when party to action.....	9829
boundaries	
how changed.....	1033
petition for change and action thereon	1033
to be ascertained.....	968
classification and board of trus- tees	1021
consolidation of districts	
bonded debt.....	1034
election of trustees.....	1034
funds and property, disposal of	1034
government of.....	1034
method of consolidation.....	1034
order consolidating.....	1034
petition and election.....	1034
creation, when.....	1023
defined	1020
joint districts	
discontinuance of.....	1037
formation of.....	1035
moneys, apportionment of....	1036
on division by creation of new county.....	1038
maintenance of schools in iso- lated sections, procedure....	1039
new districts	
apportionment of moneys to. county superintendent to hear petitions for creation of... distribution of indebtedness.. division of district funds and property	1027 969 1029 1028
organization of new districts from other districts	
appeals	1024
assessed valuation of new and old districts.....	1024
notice and posting.....	1024
order establishing.....	1024
petition for organization...	1024
protests	1024
organization of new districts from part of existing dis- tricts	
action on petition, appeals	1025
duties of trustees.....	1025
meeting	1025
notice and posting.....	1025
selection of trustees for....	1026
tax to be levied for interest- bearing warrants.....	1031
trustees may issue bonds....	1032
trustees to issue interest- bearing warrants.....	1030
issuance bonds to pay.....	1032
tax levy for.....	1031
payment for examination by state examiner.....	217
powers as body corporate....	1022
special tax for districts main- taining accredited high school classes	1281

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

School districts (continued)	
territory within limits of cities and towns not to be included in	1025
to share in high school funds, when	1280
traveling expenses, payment, when and how authorized....	443
when may be created.....	1023
School funds	
See also subtitle finance	
adjustment on creation new counties	4401
apportionment by superintendent public instruction.....	945
how invested.....	1910a, 1910b
School month defined.....	1060
School nurse.....	2505
School officers not to act as agents	1326
School trustees	
advertisement of contracts, when	1016
annual election held, when and where	987
authority to issue warrants in anticipation of school moneys	964
compensation not allowed....	1016
contracts, interest in forbidden	1016
duties generally.....	1015
election of generally, challenges, oath of voter.....	1003
elections	
board of trustees to call....	991
canvass of votes.....	996
certificate of judges.....	996
expenses, how paid.....	1004
hours of holding.....	993
in districts of first class	
nominations	990
procedure	990
in districts of second and third class, procedure.....	989
in first-class districts	
ballots and method of voting	995
judges	994
notice of in districts of first class	992
oath of voters.....	1003
poll and tally lists.....	996
qualifications of electors....	1002
special, power of trustees to call	1014
establishment of high schools by expenses of election.....	1009
flag, duty to provide.....	1015
high schools, power to establish	1009, 1058
interest in contracts forbidden.	1016
liability of for judgments and debts	1017
libraries, control of.....	1015
may issue warrants before school moneys are collected..	1012
meetings, when held, notice of	1006
mileage for attendings meetings	958
night schools, power to organize	1011

SCHOOLS, PUBLIC (Continued)

School trustees (continued)	
nominations in districts of second and third class.....	988
number in different districts 986,	1021
oath of office.....	997
organization and chairman....	1005
outhouses, duty to provide....	1015
penalty for mutilating records and withholding from successor	1018
power	
over property.....	1008
to call special election, when to change or sell school sites, when	1014
powers and duties generally...	1015
prohibition against interest in contracts	1016
qualifications of.....	985
quorum	1007
rearrangement of term to prevent election of majority....	1001
removal by court, procedure...	999
reports of.....	1015
school-houses, power over.....	1015
special school sessions, power to establish	1011
suspension by county commissioners	999
teachers, powers over.....	1015
term of office.....	997
transfer of apportionment, when	1013
transportation of pupils.....	1010
trustees in new counties.....	4396
vacancy in office, how filled...	998
term of appointee.....	998
vacancy in office of clerk, power to fill.....	1000
warrants, authority to issue in anticipation of collection....	964
warrants not to be issued unless countersigned, when.....	1019
what acts constitute forfeiture of office.....	998
School year defined.....	1061
School-houses	
fire-escapes for—See Fire-escapes	2779-
inspection by state board of health	2453, 2454
School-houses and sites	
care of school-houses.....	1179
election on building or removal, when	1015
floor space, air and light, regulation of.....	1175
plan of architecture, approval of	1174
selection, purchase or exchange of, procedure.....	1173
election, notice and canvass of votes.....	1173
sites	
approval of.....	1173
location of.....	1173
not to be changed for three years	1173

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

School-houses and sites (continued)	
state board of land commissioners to sell land for....	1173
trustees may select or change	1014
state board of health to approve plans.....	1176
county treasurer to withhold payments	1176
state board of health to furnish suggestive plans.....	1177
vestibules	1178
water supply and toilet accommodations	1180
approval by state board of health	1180
Secret fraternities prohibited....	1134
trustees to enforce act.....	1134
Sectarian publications prohibited	1055
Special elections, trustees may call, when.....	1014
State board of education—See Education, State Board of	
State board of educational examiners—See subtitle examination of teachers	
State teachers' association, teachers to attend.....	1015
State teachers' certificate fund..	1089
State text-book commission	
appointment and term.....	1187
bond of bidder, approval.....	1193
compensation	1200
contracts, bonds, and liquidated damages for breach.....	1192
contracts for supplying text-books	
basal and supplemental text-books	1190
conditions of.....	1190
procedure for letting.....	1190
sealed proposals.....	1190
forfeiture of contracts for non-performance	1194
free text-books to be provided	1198
special tax levy to provide... ..	1199
meetings, where held, notice of..	1189
organization and quorum.....	1188
penalty for using other books..	1196
price list of books to be printed and distributed.....	1195
rejection of bids.....	1192
reports as to use of books.....	1197
selection of text books.....	1191
vacancies	1187
Summer schools	
See subtitle teachers' institutes and summer schools	
Superintendent of city and high schools	
See subtitle consolidation superintendent of city schools and principal county high schools	1294—1301
Superintendent of public instruction	
appointment and salary of deputy	122, 933

SCHOOLS, PUBLIC (Continued)

Superintendent of public instruction (continued)	
high school supervisors.....	933
rural school supervisors.....	933
appointment of clerk.....	933
appointment of stenographers..	933
apportionment of school funds by	945
blanks and laws to be furnished by	935
bond of.....464,	931
county superintendent	
calling annual meeting.....	943
powers with reference to....	943
courses of study, approval by..	941
election	931
examinations, preparation of questions for.....	944
general powers.....	932
high school supervisor, appointment and salary.....	933
institutes and summer schools, rules for.....	942
libraries, duties concerning....	946
oath	931
official acts, records of.....	936
official files and records.....	934
official seal.....	937
other general duties.....	948
printing of school laws.....	938
qualifications	931
record to be kept by.....	936
reports of.....	939
publication of.....	940
salary and traveling expenses..	
.436,	949
salary of employees.....	440
school fund	
apportionment by.....	945
certificate of amount.....	945
temporary state certificates, issuance by.....	947
vacancy in office, how filled... ..	516
Superintendent of schools, city	
appointment and term.....	981
certain employment prohibited	984
duties	983
qualifications	982
salary	981
Superintendent of schools, county	
abandonment of school districts by	970
agent of orphans' home.....	1501
annual financial statement....	976
annual reports by.....	973
penalty for failure to make..	973
apportionment of school moneys by	964
bond..... 466,	953
boundaries of districts, duties concerning	968
census, duty to transmit.....	971
penalty for failure.....	971
consultation with school officers	957
clerks and deputies	
authority to appoint.....	975
qualifications and salaries....	975

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Superintendent of schools, county (continued)	
decision of controversies by, appeals	966
distribution of blanks	956
duties concerning gasoline dealers' and distributors' license tax	2393
duty	
to attach contiguous territory to carry out instructions of state superintendent	970
to file statement with state treasurer number of teaching positions	956
election	1212
financial statement, duty to publish	950
general powers	976-979
libraries, county superintendent to supervise	955
member of county board of educational examiners	962
notify county treasurer to withhold warrants, when	960
oath of office	965
oaths, power to administer	953
office and stationery to be furnished	967
office days	980
oil and gas royalties, duty to file statement	974
orphans' home, duty concerning admissions to	1212
petitions for new districts, hearing by	1501-1503
presides at county institutes	969
qualifications	961
records and seal, duty to keep	950
salary of	972
statement, duty to make financial	4869-4871
expense of report, how paid	976
penalty for failure to comply with act	978
publication and contents	979
school boards to furnish information	976
stationery and postage furnished	977
supervision of school libraries	980
temporary certificates, application for	962
term of office	959
traveling expenses, payment of	952
truant officer, duty to act as, when	4948
trustees' meetings, attendance at	963
vacancies in office	958
visiting schools	954
warrants of teachers to be withheld, when	957
Suspension of teachers' certificates	965
Tax for school purposes, levy by legislature	1087
common school levy	2155
	1202

SCHOOLS, PUBLIC (Continued)

Tax for school purposes, levy by legislature (continued)	
extra tax in excess of ten mills, procedure	1219-1223
special school levy	1203
special tax for districts maintaining accredited high school classes	1281
Teachers	
abuse of by parents and others, procedure	1082, 11527
care of school grounds and apparatus	1080
certificate of qualification	1074
who is qualified	1074
civic instruction, duty to give	1079
corporal punishment, authority to inflict, when	1081
daily register, duty to keep	1077
dismissal of, appeal	1085
duties	1077
examination of—See subtitle examination of teachers	
moral and civic instruction by	1079
normal training required for teacher's certificate	1086
patriotism, duty to teach	1079
powers over pupils	1078
re-election presumed, when	1075
reports, annual and term	1078
special certificates, fees for	1074
suspension of certificates for what cause	1087
term of office, notice of discharge	1075
undue punishment by, prohibited	1084
Teachers' certificates—See subtitle examination of teachers	
Teachers' institutes and summer schools	
compulsory attendance of teachers	1108
establishment of	1105
expenses of	1112
high school teachers exempt	1109
institute and summer school fund, payments to	1110
institute instructors	1107
length of session	1106
notice to teachers to attend	1108
record of attendance, penalty	1108
summer schools	1111
superintendent public instruction to supervise	942
to hold yearly	1107
Teachers' retirement salary fund	
deduction from retirement salary	1130
duty of county and state superintendents concerning	1124
effect of partial invalidity of act	1132
eligibility to	1117
establishment of retirement salary fund and permanent fund	1113
amount of retirement salary	1125
composition of	1113, 1114

GENERAL INDEX.

SCHOOLS, PUBLIC (Continued)

Teachers' retirement salary fund (continued)	
law binding upon whom...	1128, 1129
limitations upon retirement salary	1131
monthly contribution to permanent fund.....	1116
payment of claims.....	1124
payments to be made by those eligible	1117
reports by county and state superintendent	1124
retirement by reason of bodily or mental infirmity.....	1126
retirement salary fund board	
additional help for.....	1121
composition	1118
employment help for.....	1121
meetings and business of....	1120
place of meeting.....	1121
powers and duties.....	1119
rules and regulations additional	1123
rules and regulations of....	1122
to certify claims.....	1119
to invest moneys.....	1119
school year, how determined...	1127
state treasurer to transfer certain funds.....	1115
suspension of retirement salary who entitled to receive.....	1130
Teachers' warrants withheld, when	965
Teaching fire dangers.....	1072
Teaching prevention of communicable diseases	1073
Temporary certificates issued only once	959
Temporary state certificates, by whom issued.....	947
Text-books—See subtitle state text-book commission....	1187- 1200
Transportation of pupils.....	1010
Truancy, regulation of.....	1135- 1140
Truants	
officers, appointment and powers	1137
pauper children, care of.....	1140
prosecution of.....	1139
report of truancy.....	1138
Trustees—See subtitle school trustees	
Vaccination, when compulsory....	2481
Visitation by school trustees....	1015
Vocational education	
acceptance of act of congress..	1311
advisory committee, composition, qualifications, meetings, powers and duties.....	1315
apportionment of funds for....	1316
co-operation of state and local boards of education.....	1312
duties of superintendent of public instruction	1314
state board to adopt rules and regulations	1313
state treasurer as custodian for warrants, when to be countersigned by county superintendent	1317
	1019

SCHOOLS, PUBLIC (Continued)

Water supply, approval by board of health.....	1180
Who may attend.....	1056
Year defined.....	1061

SCIENTIFIC SOCIETIES

Incorporation of—See Corporations	6453- 6461
---	------------

SCIRE FACIAS

Abolished	9816
-----------------	------

SCRIP

Dealing in, by public officers forbidden	447
Purchase by public officers forbidden	10827

SEALED VERDICT

Jury may bring in, when.....	9357
------------------------------	------

SEALER OF WEIGHTS AND MEASURES

See Weights and Measures....	4235- 4264
Coal mine inspector, ex officio....	3454
Secretary of state, ex officio.....	112
State oil inspector, ex officio....	4194

SEALS

Agreement for compromise without, valid.....	10582
Authentication of instrumnets by officer	6918
Clerk of court to keep.....	8860
Contracts effectual without.....	7525
Defined	13, 10578
District courts.....	8859
Effect of.....	10580
Effect on negotiability of note...	8413
Fees of secretary of state for affixing	145
Forgery and counterfeiting.....	11357
Great seal of state.....	526
How affixed to written agreements	7523
How made.....	10579, 10713
Notarial seals.....	388
Of	
courts, to what affixed.....	8861
executive officers.....	527
labor unions, unlawful use....	11209
On writ of habeas corpus, etc....	12378
Provisions abolishing distinctions in contracts.....	7524
Sending by telegraph or telephone, how	9785
Supreme court.....	8858
Term includes what.....	10713
To	
certificates of contents of writing	10573
justices' transcripts.....	10572
public writings, evidence.....	10551
What courts have.....	8857

SEAMEN

Lien of.....	8390
--------------	------

SEARCH AND SEIZURE—See Intoxicating Liquors

GENERAL INDEX.

SEARCH-WARRANT

Affidavit of probable cause.....	12396
By whom served.....	12401
Complainant, party prosecuting..	12429
Deadly weapons, search of defendant for, when.....	12414
Defendant	
party against whom prosecuted to be searched before magistrate	12429
to be searched before magistrate	12414
Definition of term.....	12394
Depositions, contents of.....	12398
Examination by magistrate, depositions, what to contain.....	12398
Examination of complainant on oath	12397
Execution of warrant, when.....	12405
Form, in intoxicating liquor prosecutions	11071
Form of.....	12400
Grounds for issuance.....	12395
How issued and executed in search for intoxicating liquors.....	11104
Inventory of property	
copy of, to whom delivered....	12410
when made.....	12409
Issuance upon probable cause....	12396
Magistrate	
examine complainant.....	12397
make return to district court..	12413
take depositions of complainant and witnesses.....	12397
Malicious procuring.....	10948
Officers may break open doors, etc., when	12402, 12403
Proceedings, when ground of warrant controverted.....	12411
Property taken, if perishable, to be sold.....	12408
inventory	12409
inventory, copy to whom.....	12410
livestock, to be sold.....	12408
stolen property, how disposed of when to be returned.....	12407
when to be returned.....	12412
Receipt for property taken.....	12406
Return of deposition and warrants, where.....	12413
Return of warrant and inventory of property, when.....	12409
Search of defendant in presence of magistrate, when.....	12414
Service, breaking open doors or windows while executing....	
.....	12402, 12403
day and night-time.....	12404
Testimony	
how authenticated.....	12411
to be taken, when.....	12411
Time in which to be executed...	12405
To search pawnbrokers and junk-dealers	4187
conditions of bond.....	4190
delivery of property to claimant	4189
service of warrant.....	4188
Violation intoxicating liquor laws, form and execution of.....	11072
Void, after what time.....	12405

SEARCH-WARRANT (Continued)

Warrant	
by whom served.....	12401
form of.....	12400
must be executed, when.....	12405
to issue, when.....	12399
Who may issue.....	12394

SEAT OF GOVERNMENT

What officers must reside at.....	413
-----------------------------------	-----

SEATS

Duty of carrier to provide.....	7861
For female employees.....	3077

SECOND OFFENSE

How punished after conviction of attempt to commit state prison offense.....	11594
How punished after conviction of former offense.....	11593

SECOND PROSECUTION

Judgment bar to, when.....	11612, 12002
----------------------------	--------------

SECOND TERM

Commencement of sentence.....	11596
-------------------------------	-------

SECOND-HAND DEALERS

See Pawnbrokers.....	11184-11187
----------------------	-------------

SECONDARY EVIDENCE

Defined	10495
---------------	-------

SECRET

Extortion by threats to expose...	11390
Grand jury to be kept.....	11830

SECRETARY OF STATE

Absent voters' law, duties concerning—See Elections...	715- 756
Annual reports filed with by foreign corporations	6651- 6654
Automobiles, duties concerning registration—See Motor Vehicles	1755- 1763
Bills to be numbered, how.....	141
Blanks for reports, duty to provide	524, 525
Bond of.....	148, 464
chief clerk.....	464
deputies	122, 464
other clerks.....	464
state prison warden to be filed with	12460
where filed.....	470
Bonds of state officers filed with	469
Book of supplies, duty to keep...	137
Certificate articles of incorporation as evidence.....	5914
Certificates nominations to county clerks	619
Certificates to receipt of legislative documents	73
Certified copies, duty to furnish..	134
Commissioners of deeds, oath filed with	405
Commissions of officers to be attested by.....	427
Corporations, fees collected from.	145
County boundaries included in session laws.....	143
Custodian of what records.....	133

GENERAL INDEX.

SECRETARY OF STATE (Continued)

Decision of board of pardons to be filed with.....	12255
Deputy, appointment and bond..	122
Distribution of journals and session laws.....	135
Distribution public reports by...	521
Duties of, generally.....	134
Duty to furnish copies of corrupt practices act.....	10778
Election laws	
duties concerning—See Elections	
duty to print.....	807
Election of—See state constitution	
Expenses incurred by, how paid	144
Fee-book, duty to keep.....	134
Fees	
collected by.....	145
collected in advance and paid to state treasurer.....	145
for	
certificate of official character of notary.....	397
filing articles co-operative marketing associations...	6449
filing articles water users' associations	147
recording permit for use non-beverage alcohol.....	11090
recording trademarks.....	4288
increased capital stock foreign corporations.....	6651
of, from foreign corporations...	145
of, from fraternal and religious societies	146
on validation of articles of incorporation	5912
Files articles of incorporation...	5908
Filing fees of foreign corporations	6662
Flag, duties concerning display..	318
Form of documents published by series of.....	138
what documents excepted.....	139
Fuel and stationery, duty to furnish	140
Index to session laws, duty to provide	137
Initiative and referendum proclamations, duties concerning.99-	142, 1566
Intoxicating liquors, duties concerning — See Intoxicating Liquors	99-11048-11133
Issues certificates of incorporation	5908
Journals of senate and house, distribution of.....	135
Laws, duty to deliver to librarian for indexing.....	1566
Marking of books distributed by	136
Member of what boards.....	134
Carey land act board.....	1951
commissioners of insane, board of	1413
equalization, board of.....	113, 2122
examiners, board of.....	116
land commissioners, board of..	1809

SECRETARY OF STATE (Continued)

Member of what boards (continued)	
law library, board of trustees..	1548
pardons, board of.....	118
prison commissioners, board of	117, 12434, 12436
voting-machine commissioners, board of.....	757
Notaries public	
duty to certify official character	396
duty to file bond and oath.....	394
fee for certificate.....	397
Number bills in order of filing...	141
Oils, inspection of—See Gasoline and Oils.....	4194-4208
Organization of house of representatives by.....	58
Public documents, form and publication	138-140
Publication description boundaries new counties in session laws.	143
Publication laws, duties concerning	142
Record of trademarks, etc.....	11206
Registrar of motor vehicles—See Motor Vehicles.....	1755-1763
Reports of.....	134, 519, 524
Reports supreme court, how distributed	384
Salary of.....	436
Salary of employees.....	440
Seal	527
Sealer of weights and measures, ex officio.....	112
Secretary of state trust fund abolished	149
transfer of funds.....	150
Service of summons on for corporations, when.....	9112, 9113
Session laws, duties concerning...	134, 135, 143
Supplies, duty to furnish.....	137
Supreme court reports, duty to distribute	134
To distribute revised codes 1921, how	5553
Trademarks, duties concerning...	134
Trust fund abolished.....	149
Vacancy in office, how filled....	516
Weights and measures, duty concerning inspection—See Weights and Measures...	4235-4264

SECRETARY TO GOVERNOR

Appointment	120
Duties	121
Salary	438

SECTION LINES

Highways to follow, when.....	1649
-------------------------------	------

SECURITIES

Acquisition in other corporations.	5971
How kept by insurance commissioner	169
How paid for from normal school funds	930
Sale by officer to bank prohibited.	6051

GENERAL INDEX.

SECURITY

- See Suretyship 8195- 8209
- For alimony 5772
- For appearance of witnesses, when and how given 11792
- For costs from nonresident plaintiff 9807, 9808
- For infants and married women as witnesses, when and how given 11793

SECURITY TO KEEP THE PEACE

- Appeal by complainant, when . . . 11651
- Complaint, before whom laid . . . 11637
- Costs taxed against complainant, when 11650
- Discharge of person committed, when 11644
- Discharge of person complained of, when 11641
- Evidence of breach of undertaking 11649
- Examination of complainant and witnesses 11638
- For assault committed in court . . 11646
- How required 11652
- Proceedings when charge controverted 11640
- Security
 - effect of giving or refusal . . . 11643
 - when and how required 11642
- Testimony to be taken in writing . 11640
- Undertaking
 - evidence of breach 11649
 - when and how prosecuted . . . 11648
 - when broken 11647
 - where filed 11645
- Warrant of arrest, when and how issued 11639

SEDITION

- Defined 10737
- Emergency law 10739
- Punishment 10738

SEDUCTION

- Action upon, time for commencement 9032
- Damages for, measure of 8692
- Evidence on trial for 11984
- Father or mother may sue for, when 9074
- Guardian may sue for seduction of ward, when 9074
- Penalty for 11007
- Penalty, marriage bar to action . . 11007
- Sittings in court private 8848
- Unmarried females may sue for . . 9073
- Violation of personal relations . . 5693

SEED-GRAIN

- Liens for furnishing—See Liens. 8359- 8362
- Liens for hail insurance—See Liens 8363- 8365
- Relief to farmers—See Counties 4640- 4710

SEED-LIEN

- For hail insurance—See Liens 8363- 8365

SEEDS

- See Agricultural Seeds 3593- 3602
- Pounds in bushel 4223

SEINES

- Regulation of use for fishing . 3714- 3716

SEIZIN

- Covenant contained in agreements to sell real estate 7589

SELECTION

- Right of, in performance of obligations 7409- 7412

SELF-DEFENSE

- Homicide, when excusable . . 10963, 10967
- Lawful resistance 11632, 11633
- Right of 5688

SEMINARIES

- See Corporations 6450- 6452

SENATE

- See also Legislative Assembly
- See also United States Senators 824, 825
- As court—See Court of Impeachment 8786- 8788
- Assistant secretary, duties of . . . 67
- Impeachments, trial by—See Impeachment 11668-11686
- Journal, authentication of 68
- Officers and employees of 62
- Organization 57
- Resolution of concurrence in nominations 425
- Secretary, duties 66
- Senatorial districts
 - how constituted 42
 - in new counties 43
- Senators
 - elections 53, 54
 - number of 42
 - oath of 57
 - oaths, power to administer . . . 65
 - term 52

SENDING

- Letters, when complete 11587

SENTENCE

- See also Execution of Judgment 12087-12104
- See also Juvenile Delinquents 12294-12296
- See also Judgment
- See also Punishment
- Aggravation or mitigation, hearing 12067, 12068
- Bench-warrant to issue, when . . . 12060
- Circumstances in mitigation, etc., of 12067
- Commutation of—See Commutations
- Court
 - may suspend, when 12078

GENERAL INDEX.

SENTENCE (Continued)

Court (continued)	
to determine degree, when.....	12056
to pass sentence, when.....	10718
Death sentence—See Execution of Judgment.....	12093-12104
Defendant	
absent, bench-warrant.....	12060
in custody, how produced.....	12058
on bail, how produced.....	12059
Duty of court prior to.....	12064
Fine	
a lien on real property.....	12073
added to imprisonment.....	11599
and costs, discharge from imprisonment, when.....	12072
duration of imprisonment....	12069
pauper's oath.....	12071
Forfeiture of bail when defendant absent	12059
Hard labor, sentence to.....	12092
Imprisonment	
hard labor	12092
suspension of civil rights.....	11600
Indeterminate sentence	
effect of act.....	12077
parole, who entitled to.....	12076
when and how imposed.....	12075
Life imprisonment.....	11598
Presence of defendant, when necessary	12057
Pronouncing, no cause shown....	12066
Punishment, how determined.....	10719
Suspended sentence	
arrest of probationer.....	12084
blank forms, how furnished...	12081
certificate of judgment and order for suspension.....	12082
court may suspend, when.....	12078
effect of.....	12080
expenses, how paid.....	12086
final discharge.....	12085
persons not entitled to probation	12079
probation, how terminated....	12084
arrest of prisoner.....	12084
rules and regulations, by whom fixed	12083
state board of prison commissioners to control.....	12081-12085
when and how granted.....	12078
Time for pronouncing.....	12055
When to be deferred.....	12065
Who to pass.....	10718

SEPARATE ESTATE

Separate property of wife...5792-	5794
how far liable for husband's debts	5799

SEPARATE TRIALS

When ordered.....	11973
-------------------	-------

SEPARATION

By consent, not desertion.....	5741
Of jurors during trial, how regulated	11998

SEPARATION (Continued)

Right of husband and wife to agree to.....	5787
consideration for.....	5788
Witnesses on preliminary examination	11781

SEPULTURE

Arresting or attaching bodies forbidden	11037
Bodies, who charged with duty of burial	11034
Bodies, who entitled to custody of.	11036
Defacing tombs or monuments...	11038
Mutilation or removal of dead bodies	11032
Punishment for omitting to bury bodies	11035
Removal of bodies from grave for dissection	11033

SERGEANT-AT-ARMS

Of senate and house	
compels attendance, when.....	61
duties	69
officer of senate and house...62,	63

SERVANT

See Employer and Employee.7756-	7793
See Master and Servant.....7794-	7800
Injury to, violation of personal relations	5693

SERVICE

See Motions, Notice, Subpoenas, Writs	
Affidavit of, when and how made.	9110
Appearance, equivalent to.....	9123
Attorneys, service on, how made.	9779
By	
mail, when and how..9774, 9780,	9781
publication	9118, 9119
telegraph or telephone.....	9785
Citation, in probate proceedings.	10359, 10363
Copy of order to take deposition of witness.....	12191, 12192
Corporations	
how made.....	9110
on secretary of state, when....	9112
Costs of, may be required in advance	9120
Exceptions to general provisions.	9784
Fees of sheriff for.....	4916
Injunction	9244
Liens for—See Liens.....8383-	8386
Notices and papers.....9778-	9781
for discharge from imprisonment	9877
of	
appeal	9733
intention to move for new trial	9399
motion, by mail.....	9774
sent by mail.....	9120
to tenants.....	9890
Of	
articles of impeachment.....	11673
citation, in probate proceedings	10361, 10363

GENERAL INDEX.

SERVICE (Continued)

Of (continued)	
coroner's warrant.....	12393
injunction	9244
notices and papers.....	9778- 9781
for discharge from imprisonment	9877
of appeal.....	9733
of intention to move for new trial	9399
of motion, by mail.....	9774
sent by mail.....	9120
to tenants.....	9890
order for sale of property.....	10434
process upon	
certain corporations	
deemed personal.....	9115
duty of secretary of state.....	9114
fees for.....	9113
how made.....	9112, 9113
other notices, how.....	9116
guardians of minors.....	10374
state, how made.....	9080
search-warrant	12401
subpoena for witness.....	10620
summons	
how and by whom made.....	9110, 9111
in justice courts—See Justice Courts	9635, 9636
on corporations—See Corporations	12230-12239
proof of, how made.....	9122
writ of certiorari.....	9842
writ of mandate.....	9859
On	
attorneys, how made.....	9779
corporations	
fees for.....	9113
how made.....	9111, 9112
on secretary of state, when.....	9112
counties, cities and towns, how made	9111
defendant, not necessary after nonappearance	9782
incompetents	9111
joint defendants.....	9121
minors, how made.....	9111
nonresidents	9783
prisoners in jail, how.....	12480
sheriff, how made.....	4791
Order for sale of property.....	10434
Proceedings when only part of defendants served.....	9121
Process—See Process, Civil Code	
Process	
against counties.....	4448
in Glacier and Yellowstone parks	22, 23
upon	
certain corporations	
deemed personal.....	9115
duty of secretary of state.....	9114
fees for.....	9113
how made.....	9112, 9113
of other notices, how.....	9116
foreign investment companies	4035
guardians of minors.....	10374
lands of United States.....	21, 24, 25

SERVICE (Continued)

Process (continued)	
upon (continued)	
military reservations.....	21
state, how made.....	9080
Proof of service, how made.....	9122
State may require, when and where	26
Summons	
how and by whom made.....	9110, 9111
in justice courts—See Justice Courts	9635, 9636
proof of, how made.....	9122
Upon guardian.....	10374
Voluntary interference with property, duties imposed.....	7810
Without employment, what constitues	7810

SERVIENT TENEMENTS

See Servitudes.....	6749- 6759
Defined	6751

SERVITUDES

By whom created.....	6752
By whom held.....	6753
Enumeration of.....	6749
Extent of.....	6754
How extinguished.....	6759
Not attached to land, when granted	6750

SESSION LAWS

Description county boundaries in.....	143
Duties of secretary of state concerning	1566
Extra session 1921, how published.....	5546
How distributed.....	135
Index by law librarian.....	1565
Index, secretary of state to have prepared	142
Publication by secretary of state	135, 142
Publication description boundaries new counties.....	143

SET-OFF

Effect of assignment of chose in action	9068
Value of improvements to real property	9491

SETTING

Cases for trial, when.....	11940
----------------------------	-------

SETTING ASIDE INFORMATION

See Indictment and Information.....	11891-11895
-------------------------------------	-------------

SETTLEMENT

Of	
bills of exceptions.....	9389, 9390
bills of exceptions in criminal cases	12044
instructions	9349, 11969

SETTLEMENT OF INSTRUCTIONS

How made in criminal cases.....	11969
in civil cases.....	9349

GENERAL INDEX.

SEVERAL

Defined 16

SEWERS

See Cities and Towns
Approval by state board of health,
when 2462

SHADE-TREES

Injury to, in cities 11497

SHAM PLEADINGS

How stricken out 9166

SHEEP

Abandonment by herder 11550
Action for trespass in national
forest reserves, when forbid-
den 3382
Branding while driven through
state 11542-11545
Branding while running at large. 11553
Closed season for mountain sheep. 3699
Control of scab and other diseases
—See Livestock 11533-11540
Diseased, care of 11556
Driving from customary range . . 11549
Quarantine and inspection by live-
stock sanitary board—See
Livestock 3260-3295
Rams and goats, running at large
civil liability of owner 3392
penalty 3391
Scabby
disobeying orders state veter-
inarian 11535
moving of 11533-11537
shipment into state 11534
transporting or receiving 11536

SHERIDAN COUNTY

Boundaries and county seat 4348

SHERIFF

See also Arrest
See also Bail
Access to hotels, etc., for inspec-
tion 11247
Accounts, presenting false 11334
Actions against
for escape of prisoners, time for
commencement 9034
for official acts 9824
when instituted 9031
Actions, when prosecuted against
executors of 4777
Arrest by
in civil action, expense of keep-
ing defendant, how paid 9200
of witness refusing to appear . . 10626
order, how served 9199
return 9198
when 9198
Attachment of property by—See
Attachment 9256-9300
Bail may surrender defendant to,
when 9203
Bond of 466
Bounty inspectors 3409
Cannot practice law 8869, 8992

SHERIFF (Continued)

Compensation for delivering state
prisoners 12464
Compensation for maintenance of
prisoners 12482
Coroner to execute process, when
County jails, duties concerning—
See Jails 12466-12487
Costs, may require in advance . . 9120
Crier, duties as 4790
Damages for failure to pay over
money 4782
Deeds, title conveyed 9453
on sales prior to 1914, validity
Deposit of money with, for bail,
duties 9213
Deputies
compensation of 4873
number of 4875
qualifications 4879
Directions to, in writing 4786
Duties
and liabilities, on attachment . . 9260
if defendant in attachment re-
covers 9279
inventory 9269
levying writ 9262
must take books of accounts,
etc. 9265
praecipe from attorney 9266
return of writ, time 9287
arrests 4774
as crier 4790
as to juries 9341
must summon jurors 8910-8912
must summon jury for
inquests 8916
justices' and police courts . . . 8913
attendance at court 4774
attending meetings of county
commissioners 4469
branding livestock while driven
through state 11547
breaches of peace 4774
command rioters to disperse . . . 11658
concerning county prisoners—
See Jails 12466-12487
concerning enforcement prohi-
bition law—See Intoxicating
Liquors
conduct jury viewing premises . . 11996
county jails and prisons 4774
gambling 11169
in claim and delivery action . . .
. 9223, 9227
may take less than property
described, when 9237
papers filed 9235
property concealed 9232
property delivered, when 9233
in sale of escheats 9961
must receive persons committed
need not receive prisoners on
civil process, when 12483
on receiving execution from jus-
tices' courts 9696
other duties 4794
presence at execution of death
sentence 12103

GENERAL INDEX.

SHERIFF (Continued)

Duties (continued)	
provide room, etc., for jury upon retirement	12009, 12010
reception and service of process	4774
report to commissioners, on jail to	12487
keep county jails	12468
keep prisoners, when and how long	12472
permit attorneys to see prisoners	8990
provide accommodations for district court, when	8856
receive prisoners from another county, when	12475
return summons	9124
serve coroner's warrant	12391
Elisors, appointment of	4793
Escapes, liability for	4783- 4785
Ex officio	
auctioneer, when	4149
deputy game warden	3663
fire warden	1833
Execution for costs	9812
Execution of	
imprisonment	12090
judgment of death	12101
justices' courts judgments	12326
process, when justifiable	4788
Exonerated, on bail bond, when	9211
Expenses of transporting insane prisoners	12218
Failure to report to commissioners on jail, effect	12487
False representation of accounts	11334
Fees for board of prisoners	4886
Fees of	4916
Importation of nonresident deputies forbidden	10925-10927
Judgment in action against, for official acts	9824
Liability for	
escape of defendant after arrest	9216
refusal to levy execution or attachment	4781
refusal to pay over money	4782
on receipt of papers for prisoners	12480
Manner of levying executions	9417
May	
adjourn court, when	8852
command militia, when	11663
employ guard of jail	12481
kill disabled animals, when	11509
release debtor from jail, when	9886
Mileage of	4885
how computed	4901
how computed on double service	4900
rules governing allowance	4916
Must	
admit attorneys to jail to see clients	8990
detain person arrested for contempt	9913
provide courtroom, when	8856

SHERIFF (Continued)

No action against, for escapes or rescues, when	4785
Not entitled to rewards, when	4483
Not to practice law	4740
Notice defined	4773
Notice of sale of property on execution	9432
Obtaining confession of crime by third-degree methods	10923
penalty for violation of act	10924
Office, when vacant	4787
Peace officers	11620
Penalty for	
failure to pay over fines	11321
failure to receive person arrested	10916
false representation concerning board of prisoners	4910
expense account	4910
mileage	4909
refusing to serve process	9120
selling property without notice	9433
Posse comitatus, powers of	11655
Powers	
breaking into building where games played	11168
concerning sale of mortgaged chattels—See Mortgages.8275-	8291
in conveying convict to prison	12091
Practice of law forbidden	8869, 8992
Prisoners, duties concerning—See Jails	12466-12487
Procedure to suppress riots and disturbances—See Riots 11655-11667	
Process	
defined	4773
delay in return of	4780
duty to execute	4788
duty to exhibit	4789
penalty for failure to return	4780
return by mail to other counties to be exhibited	4778
to be exhibited	4789
Proof of service of summons	9122
Receipt of service of process on prisoners	12480
Receipt of summons by mail, service	9120
Refusal to pay over fines, etc	11321
Refusing to aid in arrests	10930
Removal of prisoner for purpose of testifying	12186
Rescues, liability for	4784, 4785
Responsibility in claim and delivery	9224
Return of	
process by mail	4778
undertaking on bail	9207
writ of execution	9419
Return upon death warrant	12104
Returns, prima facie evidence	4779
Salary of	4867
Salary of deputies	4873
Sale of property on execution 9432-	9434
Security for keep of prisoners, when	12483

GENERAL INDEX.

SHERIFF (Continued)

Service of	
papers sent by mail.....	9120
subpoenas, on concealed witnesses	10621
Service on, how made.....	4791
Summons, service.....	9110
Taking prisoner before court of another county.....	12432
Third-degree methods, use prohibited	10923, 10924
Time	
for bringing action against....	9031
to commence action against, for escape of prisoner.....	9034
To	
attend meetings of county commissioners, when.....	4469
summon jurors, how.....	8910
Transportation of prisoners, how compensated	12464
Undersheriff	
appointment and powers.....	4775
duties	4776
salary	4873
United States prisoners, liability.....	12472, 12473
Use of private deputies forbidden	10925
Vacancy in office, when.....	4787
Warrant of arrest, execution	11735-11737
When fees for copies not chargeable	9832
Writ of execution, how executed.	9431

SHIP MASTER

Lien of.....	8389
--------------	------

SHODDY

Defined	2616
Health officers to inspect.....	2617
Manufacture and sale prohibited.	2615
Penalty for violation.....	2619
Prosecution for violation.....	2618

SHOOTING-GALLERIES

License of.....	2434
-----------------	------

SICK PERSONS

Care of indigents.....	4525- 4533
------------------------	------------

SICKNESS

Of	
juror, procedure on.....	9355
justice of peace, procedure on	9714, 12000, 12013

SIDETRACKS

Railroad commission may order, when	3837
---	------

SIDEWALKS

See Cities and Towns	
Driving animals on.....	11504
Private, construction by owner of land	1726

SIGNALS

Code of, in coal mines.....	3541
Electric signals at railroad crossings	3842- 3846

SIGNATURE

Includes mark.....	16, 10713
Obtaining by means of threats...	11392
Of public officers ex officio.....	454
Pleadings must be subscribed....	9162

SIGNBOARDS

See Highways.....	1715- 1720
-------------------	------------

SILENCER

Use in hunting forbidden....	3694, 3759
------------------------------	------------

SILVER BOW COUNTY

Boundaries and county seat.....	4349
---------------------------------	------

SINGULAR NUMBER

Includes plural.....	16, 10713
----------------------	-----------

SITTINGS

Of courts of record	
private, when.....	8848
public, when.....	8847

SKATING-RINKS

Authority of cities and towns to establish and regulate...	5166, 5167
License of.....	2438

SKILL

See Care	
Degree required of employee.	7776, 7777

SKIMMING STATIONS

Duty to register location.....	3569
--------------------------------	------

SLACK

Depositing in streams.....	11276
----------------------------	-------

SLANDER

Actions upon, time for commencement	9032
Answer may allege what.....	9176
How pleaded.....	9175
What constitutes.....	5691

SLASHINGS

Burning of—See Timber....	2771- 2774
---------------------------	------------

SLAUGHTER-HOUSES

See also Meat Markets	
Duty to keep record of cattle slaughtered	3347
Licenses	
county	3348
from livestock sanitary board..	3285
how regulated.....	3283, 3285
to sell meat.....	3348
penalty for violation of act..	3349
regulation by city ordinances.	3270
Penalty for pollution streets and streams	11235
Powers of cities and towns to regulate	5039
Regulation by livestock sanitary board	3267
Unsanitary conditions defined....	2584
Unsanitary meat not to be sold..	3269

SLEEPING-CAR LICENSE TAX

See Taxation	2314, 2315
--------------------	------------

SMELTERS

Hours of labor of workmen.....	3072
penalty	3073

GENERAL INDEX.

SMELTERS (Continued)

Inspection of, by commissioner of agriculture, labor and industry	3637
Liability for negligence of vice-principals	7761
Liability to employee for damages	7761-7763
contract of insurance no bar	7764
survival of action	7765
Payment for ore	3442
Penalty for salting ore	3438

SMOKE

Control of, by cities and towns—	
See Cities and Towns	5289-5299

SNOW CREEK PRESERVE

Creation of	3761
-------------	------

SNOWY MOUNTAIN PRESERVE

Creation of	3765
-------------	------

SOCIAL CLUBS

How incorporated	6453
------------------	------

SOCIETIES

Wearing badges of, forbidden	1410
------------------------------	------

SODA FOUNTAINS

License from board of health	2589
------------------------------	------

SODA WATER

License of manufacturers	2436
--------------------------	------

SODOMY

See Crime Against Nature	11030, 11031
--------------------------	--------------

SOFT-DRINK ESTABLISHMENTS

License	
county	2436
from board of health	2589

SOIL

Malicious carrying away	11481
-------------------------	-------

SOLDIER SETTLEMENT ACT

Agricultural training to be provided	5644
Annual report to governor	5649
Appropriation, when available	5651
Basis of co-operation between state and federal government	5643
Cited, how	5638
Co-operation with federal authorities when reclaiming land	5648
Disposal of lands to other citizens, when	5647
Effect of partial invalidity of act	5652
Eminent domain, exercise of, when	5646
General powers of board	5650
Object of act	5638
Purchase of lands, how made	5641
Soldier settlement board	
compensation and term	5639
creation of	5639
empowered to take title to lands	5642
lands, how acquired by	5640, 5641
powers and duties	5640
powers of	5650
purchase of lands, how made	5641
Special districts organized, when	5645

SOLDIERS AND SAILORS

See also Militia	1330-1383
See also Soldier Settlement Act	
	5638-5652
See also Veterans' Welfare Commission	5655-5668
Appointment person to inter body deceased soldier	4536
expenses, how paid when absent from state	4536
pauper burial forbidden	4536
Burial of, by county commissioners, when	4536
county clerk, duties concerning death while absent from county	4536
death while at soldiers' home	4536
expense, how borne	4537
expense, report of, by person conducting burial	4538
headstone, procuring of	4539
inmates of soldiers' home excluded	4541
pay for conducting burial forbidden	4540
Preferred in employment on state works	5653
certificate of discharge to be filed	5654
conscientious objectors excepted	5653
physical disability not to disqualify, when	5653
Voting by, when in service—See Elections	736-756

SOLDIERS' HOME

Admission	
of wives and widows of soldiers who eligible to	1536
Board of managers	
appointment and composition	1529
bond of	1530
compensation	1540
meetings	1531, 1532
oath and bond	1530
office, where located	1539
officers and organization	1531
power to make rules	1533
records and reports	1534
Chaplain, appointment, duties and salary	1546
Commandant, appointment, qualifications and salary	1533
Contracts, limitations on	1544
Disbursement of moneys	1527
Donations, acceptance of	1538
Eligibility to admission	1535
Establishment of	1528
Expense burial deceased soldier, how paid	4536
Governor to accept national aid for	1526
Insane inmates, support of	1541
Inspection of home	1543
Money, how withdrawn from treasury	1542
Pensions of inmates not to be assigned	1545
Rules and regulations	1533
Site, conditions of donation	1537

GENERAL INDEX.

SOLDIERS' HOME (Continued)

Soldiers eligible to admission, when	1535
State auditor to receive and dis- burse money.....	1527
Supplies, contracts to be let.....	1544

SOLE TRADER

Husband	
liable for debts of, when.....	9989
not to act as agent for.....	9989
Indexes of property by county clerk	4799
Liable for maintenance of minor children, when.....	9989
Married woman may become, how	9982
Notice of intention, how given..	9983
Oath, form and filing.....	9987
Petition	
contents and filing.....	9984
how and by whom posted....	9985
Rights and liabilities of.....	9988
Trial and judgment.....	9986

SOLICITATION

Election contributions forbidden, when	10785, 10789
---	--------------

SONG-BIRDS

Killing prohibited.....	3723
-------------------------	------

SOUND MIND

Who are persons of.....	10727
-------------------------	-------

SOUTH MOCCASIN PRESERVE

Creation of.....	3771
------------------	------

SOVEREIGNTY

Residence of.....	19
-------------------	----

SPARK-ARRESTERS

Locomotives to be provided with	6600
---------------------------------	------

SPEAKER OF HOUSE

See House of Representatives..63-	76
-----------------------------------	----

SPECIAL ADMINISTRATORS

See Probate Proceedings....	10107-10113
-----------------------------	-------------

SPECIAL CONSTABLES

Appointment	9719
Authority	9720

SPECIAL COUNSEL

Employment in suits against rev- enue officers, when.....	2267
--	------

SPECIAL ELECTIONS

See Elections.....	532- 536
--------------------	----------

SPECIAL IMPROVEMENT DIS- TRICTS

For construction of main high- ways—See Highways....	1676- 1702
In cities and towns—See Cities and Towns.....	5225- 5270
In counties—See Rural Improve- ment Districts.....	4574- 4603

SPECIAL ISSUES

How tried.....	9010
----------------	------

SPECIAL PARTNERSHIP — See Partnership

SPECIAL PROCEEDINGS

Appeal, provisions applicable....	9867
Costs	9787
Defined	8998
Entitling affidavits, provisions ap- plicable	12430
Included in actions.....	9066
Judgment, definition.....	9833
Motion, meaning in.....	9835
New trial, provisions applicable..	9867
Order, meaning in.....	9835
Parties, how designated....	9834, 12429
Rules of practice.....	9866
Subpoenas, issuance of.....	12431

SPECIAL ROAD DISTRICTS

See Highways.....	1652- 1675
-------------------	------------

SPECIAL VERDICTS—See Verdicts

SPECIFIC PERFORMANCE

Action to compel, effect of certain lien on.....	509
Agreements to sell property not enforceable, when.....	8724
Cannot be enforced against par- ties, when.....	8721
Cannot be enforced, when.....	8720
Enforcement of written contract against signer, when....	8718, 8719
Enforceable against persons claim- ing under contracts concern- ing real property.....	8725
Liquidated damages not bar to..	8719
No remedy unless mutual.....	8716
Not enforceable in favor of parties, when	8722
Not required when oppressive...	8723
Of obligations, when compelled..	8714
Presumption as to adequacy of re- lief, real and personal prop- erty	8717
Remedy mutual, when.....	8715
Who cannot be compelled to per- form	8721

SPECIFIC RELIEF

Cancellation of instrument, when	8735
How given.....	8708
Judgment for possession of real property, when.....	8711
Not granted to enforce penalty, when	8710
Possession of personal property, how recovered.....	8712
holder may be compelled to de- liver, when.....	8713
Preventive relief, how given....	8709
Revision of contracts.....	8726- 8732
When allowed.....	8707

SPEED AND TRAFFIC

Driving over bridges faster than a walk	11252
Posting notice of, on bridges....	1736
Regulations—See Highways..	1742- 1754
Trains—See Railroads	

SPIRITUOUS LIQUORS

See Intoxicating Liquors...	11048-11133
-----------------------------	-------------

GENERAL INDEX.

SPOTTED FEVER

- Control of—See Entomology, State
- Board of.....2543- 2551
- See Tick-bearing Rodents....2552- 2561

SQUIRRELS

- See Gophers.....4495- 4500
- See Tick-bearing Rodents....2552- 2561

STAGE COMPANIES

- Assessment of property..... 2017

STALLION REGISTRATION

BOARD—See Stallions and Jacks

STALLIONS

- License of owner of stallion..... 8393
- Lien of stallion-keeper for services 8393
- Penalty for publishing fraudulent pedigree 8394
- selling animals subject to lien.. 8395
- Stallion-keeper, duty to file statements 8393

STALLIONS AND JACKS

- Advertisements and posters, contents of..... 3366
- Certificate of pedigree..... 3360
- Certificate of soundness of imported animals..... 3363
- Diseases disqualify for public service 3361
- Enrollment or registration of... 3357
- Exceptions from act..... 3372
- Fees for examination and license. 3367
- Funds, disposal of..... 3370
- Imported animals, certificate of soundness 3363
- License 3357
 - certificate
 - form of..... 3365
 - posting of..... 3364
 - transfer of..... 3368
 - county, keeper of stallion, jack or bull 2437
- Penalty for violation of act..... 3369
- Range animals excepted..... 3372
- Stallion registration board
 - compensation 3359
 - composition 3359
 - creation and meetings..... 3358
 - report to governor..... 3371
 - secretary 3359
- Standing for public service defined 3372
- Temporary license certificate... 3362
- Transportation without certificate forbidden 3373

STANDARDS

- Apple-box—See Apples.....4265- 4272
- Bread—See Bread.....4273- 4276
- Bushel defined..... 4226
- Grades of hay—See Hay....4229- 4232
- Grain grades established by commissioner of agriculture..... 3580
- Money—See Money.....4283- 4286
- Time—See Time.....4277- 4282

STANDARDS (Continued)

- Ton defined..... 4226
- Weights and measures—See Weights and Measures...4212- 4233

STANDING CROPS

- Injuries to..... 11483

STATE

- Actions by, subject to statute of limitations 9043
- Allegiance to, defined..... 35
- Bringing armed men into..... 11315
- Citizens of, defined..... 32
- Costs, state treasurer to pay, when 9814
- Criminal actions prosecuted in name of..... 11609
- Defined in code..... 16
- Division into counties..... 41
- Escheats—See Escheated Estates
- Escheats occur, when..... 28
- Extent of sovereignty..... 20
- Fiscal year defined..... 518
- Flag and flower of.....529, 530
- Includes what.....16, 10713
- Joinder, as defendant in certain actions 9079
- service of process on, how made 9080
- Lands, trespass on..... 11507
- Liability for debts of railroads forbidden 6518
- May appeal from what..... 12108
- May take by gift or will..... 6978
- Need not give security..... 9829
- Not to pay costs, when.....9246, 9810
- Process in name of..... 19
- Property
 - damages 11335
 - trespass on..... 11335
 - unenclosed 11336
- Public moneys, wrongful acts.... 11318
- Right to
 - acquire property by taxation... 29
 - exercise eminent domain..... 30
 - hold property..... 6673
 - survey and locate land for public use..... 9938
- Rights over persons..... 26
- Seal of..... 526
- Service, right to require, when... 26
- State prison board cannot contract debts binding upon.... 12463
- Territorial jurisdiction..... 20
- Timber
 - removal of..... 11336
 - unlawful cutting..... 11507
- Title to property in people of... 27
- To pay costs of extradition..... 12427
- What property belongs to..... 6674
- When property escheats to..... 28
- Will not sue for real property, when 9012
- Will, power to take by..... 6978

STATE AUDITOR

- See Auditor, State
- See also Banks and Banking
- See also Insurance Corporations
- Duties as to surety companies' responsibility 9826

GENERAL INDEX.

STATE AUDITOR (Continued)

- Penalty for violation of duty.... 11331
- To draw warrant for moneys from
 escheated estates, to whom..
 9962, 10351
- To draw warrants on prison fund 12463

STATE BANKING FUND

- State board of examiners may in-
 vest in general fund warrants 270

STATE BANKS

- See Banks and Banking
- Taxation of..... 2067

STATE BOARD OF EQUALIZA- TION—See Equalization, State Board of

STATE BOARDS, COMMISSIONS AND DEPARTMENTS

- See State Officers for list of state
 officers
- See State Institutions for list of
 state institutions
- Accountancy, board of examiners
 in—See Public Accountants..
 3241- 3251
- Agriculture, labor and industry,
 department of.....3555- 3649
- Arbitration and conciliation,
 board of.....3052- 3060
- Architectural examiners, board of
 —See Architects.....3229- 3240
- Attorneys, examining board—See
 Attorneys at Law.....8948- 8949
- Bank department—See Civil Code
 6070- 6086
- Board of pardons—See Pardons..
 12247-12266
- Board of supplies—See Examiners,
 State Board of.....254- 269
- Canvassers, state board of—See
 Elections803, 804
- Carey land act board.....1949- 1995
- Charities and reform, board of 325- 335
- Child and animal protection, bu-
 reau of.....336- 349
- Chiropractic examiners, board of
 3138- 3150
- Circulating libraries, board of... 1571
- Coal mine inspector, examiners
 for—See Mines and Mining..
 3459- 3467
- Contest board.....1840
- Dental examiners, board of—See
 Dentistry3105- 3115
- Depositary board.....182
- Education, board of—See Educa-
 tion, State Board of.....830- 851
- Educational examiners, board of
 —See Schools, Public....1088- 1104
- Embalmers, board of.....2456
- Entomology, board of.....2543- 2561
- Equalization, board of—See Taxa-
 tion
 composition of board..... 113
- Examiners, board of.....232- 269
- Examiners of coal mine inspec-
 tors3459, 3467

STATE BOARDS, COMMISSIONS AND DEPARTMENTS (Contin- ued)

- Fish and game commission—See
 Game and Fish.....3650- 3778
- Hail insurance, board of.....350- 363
- Health, state board of.....2444- 2463
- Highway commission.....1783- 1802
- Historical library, trustees for... 1548
- Industrial accident board—See
 Workmen's Compensation Act
 2816- 3043
- Insane, board of commissioners
 for—See Insane Asylum, State 1413
- Irrigation commission, Montana.
 3947- 3952
- Irrigation district bond commis-
 sion7223
- Land commissioners, board of—
 See State Lands.....1809- 1817
- composition of board..... 119
- Law library, trustees for..... 1548
- Legislative assembly.....51- 89
- Livestock commission—See Live-
 stock3253- 3259
- Livestock sanitary board—See
 Livestock3260- 3295
- Medical examiners, board of—See
 Medicine3116- 3124
- Mines and metallurgy, bureau of
 882- 888
- Montana orthopedic commission—
 See Health, State Board of..
 2511- 2514
- Nurses, board of examiners of—
 See Nurses.....3203- 3216
- Optometry, board of examiners in
 —See Optometry.....3155- 3169
- Osteopathic examiners—See Os-
 teopathy3125- 3137
- Pardons, board of..... 118
- Pharmacy, board of.....3173- 3180
- Prison commissioners, board of.. 117
- Public school teachers' retire-
 ment salary fund board—See
 Schools, Public.....1113- 1130
- Public service commission...3879- 3913
- Purchasing department—See Pur-
 chasing Department, State 284- 293
- Railroad commissioners, board of.
 3779- 3847
- Real estate commissioner—See
 Real Estate Commissioner...
 4056- 4078
- Soldiers' home, board of managers
 of—See Soldiers' Home..... 1529
- Stallion registration board—See
 Stallions and Jacks....3357- 3373
- State board for vocational educa-
 tion3044- 3051
- State fair advisory board...3641, 3642
- State parole commissioner—See
 Parole Commissioner, State..
 12516-12518
- State prison commissioners—See
 State Prison
- Superintendent banks..... 6070

GENERAL INDEX.

STATE BOARDS, COMMISSIONS AND DEPARTMENTS (Contin- ued)

Teachers' retirement salary fund board—See Schools, Public..	1113- 1130
Terminal grain elevator, board of.	1592
Text-book commission—See Schools, Public.....	1187- 1200
Trade commission for regulation of public mills.....	3914- 3946
Veterans' welfare commission.....	5660- 5665
Veterinary medical examiners— See Veterinary Medicine.....	3217- 3228
Vital statistics, bureau of....	2515- 2539
Voting-machine commissioners— See Elections.....	757- 773

STATE BOUNTY FUND

Creation ..	3414
-------------	------

STATE CAPITOL BUILDING BONDS—See Bonds

STATE CHEMIST

Access to kitchens for inspection of food.....	11247
---	-------

STATE EXAMINER—See Exam- iner, State

STATE FAIR

Appropriation by counties for ex- hibits ..	4550
Control by department of agricul- ture, labor and industry—See Agriculture, Labor and Indus- try, Department of.....	3640- 3644
Establishment of.....	1580
Management of.....	1582
see also Agriculture, Labor and Industry, Department of.....	3640- 3644
Objects and purpose.....	1581
Time for holding.....	1581

STATE FLOWER

Designation ..	530
----------------	-----

STATE HIGHWAYS

Defined ..	1613
------------	------

STATE INDUSTRIAL SCHOOL

See Montana State Industrial School ..	12488-12515
---	-------------

STATE INSTITUTIONS

College of agriculture and me- chanic arts, including agricul- tural experiment stations.....	889- 901
Deaf and blind, Montana school for ..	1456- 1473
Fair—See State Fair.....	1580-1582, 3640- 3644
Farmers' institutes.....	1576- 1579
Feeble-minded persons, training school for.....	1474- 1483
Forestry school—See University, State ..	875- 877
Grain inspection laboratory.....	902- 912
Hospital for inebriates.....	1445- 1455
Industrial School—See Montana State Industrial School.....	12488-12515

STATE INSTITUTIONS (Contin- ued)

Insane asylum.....	1413- 1444
Law school—See University, State	872- 874
Library, including circulating libraries ..	1547- 1575.
Mines, school of.....	878- 889
Montana school for the deaf and blind—See Deaf and Blind...	1456- 1473
Montana state industrial school..	12488-12515
Normal school.....	926- 930
Northern Montana agricultural and manual training school..	917- 925
Orphans' home.....	1484- 1510
Prison—See State Prison.....	12434-12465
Soldiers' home.....	1526- 1546
Terminal grain elevator....	1583- 1602
Transfer of certain special funds authorized ..	271
Tuberculosis sanitarium.....	1511- 1525
University of Montana.....	852- 860
University, state.....	861- 877
Vocational school for girls.....	12519-12546

STATE LANDS

Acceptance act of congress rela- tive to lands Crow Indians..	1806, 1807
Actions land board may defend.....	1880
to cancel patents, limitations.. where triable.....	1865 1921
Agricultural lands, classification.	1843
Appropriation of water by state.	1965
Assignment of certificates.....	1866
Auction sale of state lands.....	1856
Between low and high water marks not be sold.....	1853
Bond of assistant registrar.....	464
deputy registrar.....	464, 1819
registrar ..	464
Bond on permit to cut timber.....	1873
purchase of, procedure.....	1911
rental of land.....	1884
Bond sales, notice to be given land board, waiver of....	1913- 1915
Bonds of state land board em- ployees ..	1817
Bonds, redemption before matu- rity, when.....	1916
Brands, designation, penalty for violation ..	1881
Carey land board—See Carey Land Act Board.....	1949- 1995
Certificates of purchase assignment of.....	1866
cancellation for fraud.....	1866
classification conclusive, when..	1844
contents of.....	1861
forfeiture of.....	1859
lost certificate.....	1867
new certificates issued, when...	1869
taxation of.....	1868
when issued.....	1861

GENERAL INDEX.

STATE LANDS (Continued)

Chief examiner, appointment and compensation	1943
Classification of lands	1843
how classified	1843
maps and plats to indicate	1843
near incorporated cities	1843
reclassification	1843
when conclusive	1844
Clerk to register state lands	1820
Coal lands	
lease on royalty basis	1846
what deemed	1846
Coal rights, reservation of	1852
Common school funds, how invested	1928
Confirmation of sales	1858
Contest board, composition and duties	1840
Copies records land board as evidence	1812
Corrections in deeds to land	1815
Deeds, corrections of errors in	1815
Defined	1805
Deputy register of state lands	1819, 1821
bond of	464, 1819
Examination by state land agent	1862
Expenses, how paid	1918
False appraisement, penalty for	1826
Farm loans—See subtitle investment of funds in farm loans	
Fees and fines, how disposed of	1919
Fees of register	1823
Finance	
bonds may be redeemed before maturity	1916
disposal of fines, fees, etc.	1919
disbursement of permanent educational funds	1923
biennial statement	1926
month deposit of certain moneys	1922
quarterly statement	1925
what fund to be used first	1924
expenses, how paid	1918
land grant funds, how invested	1910a
money to go into permanent funds	1910
money, where payable	1909
payment of interest on land grant warrants	1917
procedure on purchase of bonds	1911
treasurer to purchase warrants, when	1912
Fines and fees, disposal of	1919
Fire wardens, volunteer	
appointment of	1833
duties	1836
powers	1834, 1835
who are	1833
Forest reserves, relinquishment of lands in	1813
Forester, state	
appointment	1830
assistant to, appointment, salary and bond	465, 1832
bond	465, 1830

STATE LANDS (Continued)

Forester, state (continued)	
destruction of notices, penalty	1838
duties	1831
expenses of	1837
fire wardens, appointment of	1833
lectures, duty to deliver	1831
notices, posting of	1831
permits to cut timber, issuance of	1874, 1875
prosecutions by	1839
penalty for nonperformance of duty by county attorney	1839
salary	1830
state brand, designation of	1881
penalty for violation	1831
Forestry board	
composition	1841
duties	1842
Forests, selection of lieu timber land in	1907, 1908
Forfeiture of certificates of purchase	1859
Funds, how invested	1910A-1910B
Gifts to state, acceptance of	1816
Grants to United States	1849
Grazing lands, classification	1843
Highway construction, removal of stone and dirt for	1814
Highways, grants of rights-of-way for	1850
Improvements on leased coal lands	
of prior lessee	1890
removal of	1899
removal of	1898
Improvements, report on value of	1862
Interest of purchaser, subject to lien	1869
Interest on warrants, payment of	1917
Investment of educational funds	1928
estimate of	1929
statement of	1929
Investment of funds in farm loans	
abstracts of title	1934
approval by attorney-general	1935
amount of loan	1931
application for	1930
applications for, pending final clearing	1946
certificate	1947
investigation	1947
appraisal of land and report	1933
approval of abstract by attorney-general	1935
assignment of mortgage, execution of	1941
chief examiner, duties and compensation	1943
disposal of proceeds of sale	1942
estimate of amount of funds	1929
expenses to be borne by state	1934
foreclosure of mortgage, procedure	1938
forms, preparation of	1945
how secured	1931
in what funds invested	1928
interpretation of act	1948
mortgage, assignment of	1940, 1941
conditions governing	1932
foreclosure, procedure on	1938

GENERAL INDEX.

STATE LANDS (Continued)

Investment of funds in farm loans (continued)	
mortgage, assignment of (continued)	
forfeiture of and sale of land.	1938
name and term of.....	1932
sale and assignment of.....	1940
to be recorded.....	1936
no fees to be charged by certain officers.....	1939
rules and regulations concern- ing applications.....	1947
rules to be promulgated.....	1944
satisfaction of mortgage.....	1937
security for.....	1931
Irrigable lands, sale in farm units	1992
Irrigation—See Carey Land Act Board.....	1949
Irrigation, sale of lands for.....	1854
Lakes, sales of land on navigable.	1853
Land agent, state	
appointment and bond.....	1824
assistant to, appointment and salary.....	1825-1827
duties.....	1828
duties to transmit list of sales to assessor.....	2057
examination and reports on state land.....	1862
false appraisalment, penalty for.	1826
reference to law governing....	207
reservoir sites, location of.....	1829
salary.....	1824
selection of lands by.....	1828
water rights, duty to locate for state.....	1829
Land, classification of—See sub- title classification	
Land commissioners, state board of	
actions, power to defend.....	1880
bond sales, notice to be given to, waiver of.....	1913-1915
bonds required by.....	1817
composition of.....	119, 1809
copies of records of, as evidence	1812
defend suits, when.....	1880
designation.....	1809
duty to notify auditor amount school funds.....	945
errors, power to correct.....	1815
gifts and devises, power to accept.....	1816
may	
correct errors in deeds.....	1815
lease lands.....	1882
permit removal of stone and dirt from public lands.....	1814
sell lands, when.....	1852
meetings.....	1810
minutes.....	1811
president of.....	1810
president pro tem.....	1810
procedure on purchase of bonds by.....	1911
quorum of.....	1809
records of timber and character of land to be kept by.....	1845

STATE LANDS (Continued)

Land commissioners, state board of (continued)	
records public.....	1812
relinquishment of school lands by, in forest reserves.....	1813
rules, adoption of.....	1810
sale of timber by.....	1872
Land office expense fund abolished	1920
Land grant funds, how invested.	1910a
Lease of lands	
advance payment of rent.....	1886
board may lease.....	1882
bond on.....	1884
cancellation of fraudulent leases	1901
city lots, how leased.....	1887
coal lands on royalty basis....	1846
coal lands, rental of.....	1890
coal, oil and gas leases.....	1882
delinquency, procedure.....	1895
disposal of rentals.....	1902
duplicate leases.....	1892
execution of.....	1892
forfeiture of leases.....	1886-1895
notice of forfeiture.....	1886-1895
holding over and trespass, pen- alty.....	1904
how leased.....	1883
improvements on land	
former lessees, payment for..	1889
of prior lessee, procedure to ascertain value.....	1899
removal of.....	1898
value, how determined.....	1889
interest subject to execution...	1894
lands valuable for stone.....	1891
leasehold subject to execution..	1894
mineral leases.....	1882
notices to delinquent lessees...	1895
offering for lease of lands not sold.....	1883
oil and gas leases.....	1882
penalty for failure to make first payment.....	1885
purchase of water-right by lessee.....	1897
receipts for money.....	1893
record of leases and certificates.	1895
refund of erroneous payments..	1903
renewal of lease, how made....	1888
rental, when payable.....	1882, 1884
signature on.....	1892
stone lands, lease on royalty basis.....	1891
term of lease.....	1883
terms of lease.....	1887
unsold lands may be leased....	1896
water-right, purchase by lessee.	1897
who may not buy or lease.....	1900
Lease to executive board of state vocational school for girls...	12526
Lessees, rights on sale of improve- ments.....	1862
Liens on interest of purchaser...	1869
Lieu forest reserve lands.....	1813
Lieu timber lands	
defined.....	1907
selection of.....	1908

GENERAL INDEX.

STATE LANDS (Continued)

Location mining claims on.....	7381
Log-marks	1876
Logs, report of.....	1876
Lost certificates.....	1867
Mining claims, location of.....	1905
posting notice.....	1905
proof of mineral character of land	1906
purchase or lease of claim.....	1905
Money—See subtitle finance	
National forest reserves, marking boundaries of lands—See For- est Reserves.....	3380- 3382
Oil and gas rights, reservation on sale of lands.....	1852
Patents	
how executed	1864
limitation on action to cancel..	1865
when issued.....	1863
Penalties generally.....	1879
Penalty for	
false appraisement.....	1826
false marks on timber.....	1878
violation of act by state offi- cers	1927
Permanent school funds—See sub- title finance	
Permits to cut timber.....	1873- 1875
Powers of land board to include lands in irrigation districts..	4014
Prosecutions	1839
Public auction sales.....	1857
advertisement of.....	1857
confirmation of.....	1858
when and where held.....	1856
Public lands defined.....	1805
Reappraisal of lots in cities..	1848
Reclamation of arid lands—See Carey Land Act Board..	1949- 1991
Record of character of land to be kept	1845
Refund of erroneous payments...	1903
Register of state lands	
appointment	1818
bond	464, 1818
clerk, appointment and salary..	1820
deputies, appointment, salary and bond.....	1819, 1821
duties	1818
duty to conduct sales and leas- ings	1855
fees of.....	1823
office	1818
salary	1818
Relinquishment of school lands to United States, when.....	1813
Rental of—See subtitle lease of lands	
Reservation of coal, oil and gas, when	1852
Reservoir sites, location for state.	1829
Reversion to state	
procedure on.....	1870
rebate of taxes.....	1870
Right-of-way for highways.....	1850
Right-of-way for public use.....	1851

STATE LANDS (Continued)

Salaries	
assistant secretary Carey land board	440
assistant state land agent.....	1827
how paid	1822
land agent, register and deputy register	1818, 1821
Sale of state lands	
adjacent to cities, how sold....	1847
advertisement of sales.....	1857
board may direct sale, when...	1852
by quarter sections.....	1855
certificate of purchase.....	1861
coal, oil and gas, reservation of.	1852
confirmation	1858
default in payment, procedure on	1859
first payment.....	1855
forfeiture of certificates, notice.	1859
grant to United States, price...	1849
how sold.....	1852
improvement of lessee, payment for	1862
irrigable lands, sale in farm units	1992
irrigation	
sales for, terms, contracts and conditions	1854
withdrawal of lands for.....	1852
lands between low and high- water marks.....	1853
lands in or adjacent to cities	
how and when sold.....	1847
public auction.....	1847
size of lots.....	1847
limit to single purchaser.....	1855
minimum price.....	1855
money, where payable.....	1909
navigable lakes, sale of lands on	1853
notice of sale.....	1857
patent, how executed.....	1864
patent, when issued.....	1863
penalty for destruction of tim- ber	1871
public auction, when and where held	1856
public sale.....	1852
purchase price	
amount paid at time of sale..	1855
how paid.....	1860
reappraisal of lots in cities.	1848
report on value of land and im- provements	1862
reservation of coal, oil and gas.	1852
right-of-way for highways....	1850
sales to United States, terms of	1852
timber not to be cut by pur- chaser, when.....	1871
to whom made.....	1852
Sale of timber	
appraisal of timber.....	1872
conditions of sale.....	1872
estimate of amount.....	1872
false marks, penalty for.....	1878
log-marks, selection of.....	1876
minimum price.....	1872

GENERAL INDEX.

STATE LANDS (Continued)

Sale of timber (continued)	
payment for.....	1877
draft and enforcement of....	1877
permit for cutting	
bond.....	1873
when granted without notice.	1875
permits, form, contents and record	1874
state land board may sell.....	1872
School funds, income, how invested	1910B
School lands in national forests, ceding to United States....	1907
Selection of lieu lands.....	1908
State land agent to investigate lands applied to be purchased purchaser is to pay value of cultivation	1862
Stone lands, lease of.....	1891
Suits to be defended by board... where tried.....	1880
Taxation of certificates of purchase	1868
rebate on reversion to state...	1870
Timber—See subtitle sale of timber	
damages for destruction of....	1871
Timber lands, classification of...	1843
Traveling expenses assistant state land agents.....	1827
Trespass and holding over.....	1904
Trespass on, penalty.....	1879, 11507
United States, sale of lands to 1849,	1852
Violation of act by state officers, penalty	1927
Warrants, state treasurer to purchase, when.....	1912
Water-rights	
appropriation by state.....	1965
location for state.....	1829
purchase by lessee.....	1897
Withdrawal of lands in irrigation projects	
lease of lands.....	1995
procedure	1993
sale of lands.....	1994
Who may not buy or lease.....	1900

STATE OFFICERS

See also Public Officers	
See also State Boards, Commissions and Departments	
Accountant	305- 309
Adjutant-general—See Militia....	
.....	1330- 1412
Attorney-general—See Attorney-general	
Auditor—See Auditor, State	
Boiler inspectors—See Inspection of Boilers	2712- 2729
Chancellor of university of Montana	853
Chemist—See Gasoline and Oils.. ..	4200- 4208
Clerk of the supreme court....	370- 376
Coal mine inspector—See Mines and Mining.....	3448- 3467

STATE OFFICERS (Continued)

Commissioner of agriculture.....	3556- 3649
Custodian of records of G. A. R.	320- 324
Custodian of state capitol....	310- 316
Engineer	1954- 1959
Entomologist	913- 916
Epidemiologist	2540- 2542
Examiner	209- 230
Fire marshal.....	2737- 2762
Fire warden.....	2776- 2778
Fire wardens—See State Lands.. ..	1833- 1839
Fish and game warden—See Game and Fish.....	3655- 3664
Forester—See State Lands....	1830- 1839
Governor—See Governor	
Historical librarian—See Library, State	1547- 1567
Insurance commissioner.....	162- 173
Investment commissioner.....	4053
Land agent—See State Lands	1824- 1829
Law librarian—See Library, State	1547- 1567
Lieutenant-governor	130- 132
Marshal of supreme court....	366- 369
Money belonging to, may be attached	9294
Oil inspector—See Gasoline and Oils	4193- 4208
Parole commissioner	12516-12518
Private secretary to the governor.	120, 121
Quartz mine inspectors—See Mines and Mining.....	3418- 3424
Recorder of marks and brands—See Livestock	3299- 3308
Register and deputy register of state lands—See State Lands.	1818- 1823
Sealer of weights and measures—See Weights and Measures... ..	4235- 4264
Secretary of bureau of child and animal protection.....	337- 349
Secretary of state—See Secretary of State	
Secretary of state board of health	2446
Superintendent and assistant superintendent of insane asylum	1415- 1417
Superintendent of banks—See Banks and Banking.....	6014- 6109
Superintendent of public instruction—See Schools, Public	931- 949
Treasurer—See Treasurer, State	
Veterinary surgeon—See Livestock	3260- 3295
Warden of state prison—See State Prison	12438-12465

STATE OF MONTANA

Bonds to be in name of, when...	504
Prosecutions in name of.....	11609
Style of process.....	19

GENERAL INDEX.

STATE PRINTING—See Printing

STATE PRISON

Accounts to be certified by warden	12444
Attempts to escape.....	10867
Attendance of prisoners at court, how procured.....	12432
Bond of warden.....	12460
Clerk of board, appointment and duties.....	12465
Commutation of sentence, when.....	12455, 12456
Compensation of sheriffs for delivering prisoners.....	12464
Contract labor prohibited.....	12446
Convicts	
deposition, how taken.....	12198
employment of.....	12447
escape of, effect on warden and officers	12448
labor of.....	12446
prison jurisdiction extends over places of labor.....	12449
County jails may be used, when..	12459
Credit for good behavior, time granted	12456
forfeiture of, when.....	12457
Discharged convict furnished with suit of clothes and money...	12458
Employment of convicts, how regulated	12447
Escapes—See subtitle rescues and escapes	10866, 10867
Expenses of United States convicts, how defrayed.....	12452
Good behavior, credit for.....	12456
forfeiture of, when.....	12457
Hours of labor prison guards.....	12441
penalty for violation of act....	12442
Insane convicts, removal to asylum	12461
Inspection of books and papers... delivery to successor.....	12451
Jurisdiction over places of labor..	12449
Labor of convicts, how regulated	12446
Labor on highway, when permitted	1790
Moneys received for prison labor, disposal of.....	12450
Monthly estimates by warden....	12443
Prison commissioners, state board of	
advertising for furnishing of supplies, how.....	12445
clerk, appointment of.....	12465
composition	12434
control of prison by.....	12435
duties	12465
officers of board.....	12436
powers concerning suspended sentences	12080-12085
powers of.....	12435
records to be kept by.....	12465
secretary, duties of.....	12437
Punishment of convicts, rules governing	12454
Reference to law governing.....	1603
Reports of warden and board....	12462

STATE PRISON (Continued)

Rescues and escapes—See Rescues and Escapes.....	10866, 10867
See punishment for assisting in	10870, 10871
Residence of warden.....	12443
Road work, good behavior allowance	12456
Rules and regulations.....	12453
penalty for violation of.....	12454
Sealed proposals for supplies....	12445
State prison fund.....	12463
Unauthorized communication with convicts	10949
United States convicts, duty to receive	12452
Warden	
accounts to be certified by....	12444
appointment and salary.....	12438
bond of.....	12460
duties	12439, 12440
insane convicts, duties concerning	12461
monthly estimates prepared by	12443
penalty for violation of act....	12442
removal, how and when.....	12438
reports of.....	12462
residence	12443
Witnesses, removal of.....	12186

STATE PURCHASING DEPARTMENT

See Purchasing Department, State	284- 293
--	----------

STATE REFORM SCHOOL

See Montana State Industrial School	12438-12515
---	-------------

STATE TREASURER—See Treasurer, State

STATE WARRANTS

Cancellation, when unclaimed....	158
Duty of state auditor concerning	151
Interest on.....	180
Lost warrant, issuance duplicate	159
Order of drawing.....	154
Registry	180

STATEMENT

Bill of exceptions in civil actions	9390
Objections, how made.....	9388

STATEMENT OF FACT

Trial upon agreed statement, effect of.....	9372
---	------

STATEMENTS

Annual, of corporations—See Annual Statements	
Foreign corporations.....	6651

STATE'S EVIDENCE

Rules governing.....	11974-11976
----------------------	-------------

STATISTICS

Board of charities and reform to collect	330
Compilation by state highway commissioner	1786

GENERAL INDEX.

STATISTICS (Continued)

County assessor to collect	
farm statistics.....	2043- 2047
names of owners of pure-bred stock	3351
Duty of public officers to furnish	3639
Penalty for failure assessor to collect	2047
Penalty for failure to furnish....	2046
Preparation and publication by department of agriculture, labor and industry.....	3638
Preparation for distribution by counties	4470b

STATUTE OF FRAUDS—See Frauds, Statute of

STATUTE OF LIMITATIONS—See Limitations, Statute of

STATUTES

See also Codes	
Amendatory acts, when void.....	98
Approval of, by governor.....	85, 89
Bills to be numbered, how.....	141
Codes, how construed.....	4
Computation of time, when effective	10707
Construction	94, 10519, 10520
in favor of natural right preferred.....	10527
Disapproval by governor.....	85
Effect of	
amendment	93
codes upon.....	17
final adjournment of legislature	89
Effective date.....	90
Existing statutes, how affected by Political Code.....	5
Expression of supreme power....	5671
Final passage, meaning of.....	91
Indorsement by governor.....	84
Intent of legislature to govern construction	10520
Joint resolutions, when effective..	92
Local and special acts, effect of codes on.....	18
Penal, how construed.....	10710, 10711
Pleadings, words used in.....	11851
Private, how pleaded.....	9174, 11856
Public and private, defined.....	10548
Recitals conclusive evidence, when	10553
Remaining with governor more than five days, effect.....	88
Repeal of	95
criminal laws, when bar to prosecution	97
repealed statutes, effect.....	5526
Retroactive, when.....	3
Return by governor when house not in session.....	87
Return without governor's approval	86
Revival by repeal of repealing act	96
Session laws, how distributed....	135
Strict construction abolished....	4
Take effect, when.....	90
When abrogated by codes.....	17

STATUTES (Continued)

When effective.....	90
Written law contained in.....	10547

STAY

Appeal to supreme court, effects, when	9735
After notice of motion for new trial	9401
By injunction, statute of limitations	9055
In	
certiorari	9841
eminent domain.....	9937
mandamus	9742
prohibition	9742
quo warranto.....	9601
Not allowed on appeals to supreme court, when.....	9742
Of	
execution on appeals to district court, how effected.....	9759
proceedings	
on appeal to supreme court from order.....	9731
on appeals to supreme court—See Appeals.....	9735- 9739
When judgment entered in case of	9403
When ordered by supreme court on appeal.....	9732

STAY OF PROCEEDINGS

Certificate of probable cause.....	12113
Compromise by order of court..	12221, 12222
On appeal	
by defendant, capital cases....	12113
by state, none.....	12112
On motion for new trial.....	12050
Pending determination of sanity.	12214
To take deposition out of state..	12204

STEALING RIDES

On cars or locomotives forbidden	11568
Riding on truck-roads or brake-beams forbidden	11569
Trainmen constituted peace officers, when.....	11570

STEAMBOATS

Assessment	2017
Inspection of—See Navigation...	3859- 3878

STEAM-BOILERS

See also Boilers	
Death from explosion, penalty...	11229
False certificate of boiler inspector, penalty for.....	11198
Operating without license, penalty	11196
Penalty for mismanagement....	11195
Unsafe, use forbidden.....	11197

STENOGRAPHERS

District court stenographers	
appointment, when and how....	8928
duties concerning record of proceedings	8929, 8930
duty to furnish copies to parties, when.....	8931

GENERAL INDEX.

STENOGRAPHERS (Continued)

District court stenographers (continued)	
exceptions to instructions, duty to take.....	9349
fees per folio for copy.....	8931
matters to be transcribed by..	8930
mileage	8933
must	
be present at settlement of instructions	9349
file notes with clerk.....	8929
pro tem., when appointed.....	8934
report prima facie evidence....	8935
salary	8933
stenographer's fee	
taxation in cost-bill.....	8932
when and by whom paid.....	8932
term and oath.....	8928
Exceptions to challenge to jury	11947-11949
Present at settlement of instructions	11969
To attorney-general.....	204, 205
To state treasurer, appointment and salary	185

STILLWATER COUNTY

Boundaries and county seat.....	4350
---------------------------------	------

STIPULATION

For transfer of action, when.....	9099
Power of attorneys to enter.....	8974

STOCK

See also Livestock	
Actions to recover, when sold for delinquent assessments, time for commencement.....	9035
Attached, how.....	9261, 9262
Banks and banking corporations—See Banks and Banking.	6014- 6109
Corporations—See Corporations	
Taxation of—See Taxation..	2068- 2087
Transfers, when subject to inheritance tax.....	10387

STOCK AND MUTUAL INSURANCE COMPANIES OTHER THAN LIFE

See Insurance Corporations..	6128- 6169
------------------------------	------------

STOCK BROKERS

Regulation of — See Investment Companies	4026- 4055
--	------------

STOCK GROWERS' ASSOCIATIONS

How incorporated.....	6453
-----------------------	------

STOCK INSPECTORS AND DETECTIVES

See Livestock.....	3309- 3316
Employment by county commissioners	4484, 4485

STOCKHOLDERS

Bank, liability for debts.....	6036
Liability for debts of corporations	5966

STOCKHOLDERS (Continued)

Of railroads consenting to incurring certain debts, misdeemeanor	11448
Refusal of permission to inspect books	11447
Right of—See Corporations	

STOCKYARDS

Railroad commission may order, when	3837
---	------

STOLEN PROPERTY

Court may order delivery, when..	12243
Delivery to county treasurer if not claimed, when.....	12244
Delivery to owner, conditions of..	12241
Disposal by county treasurer, how	12244
Magistrate to deliver to owner, when	12242
Officer to give receipt for money taken from arrested person..	12245
receipts, where filed.....	12245
Owner to pay expenses.....	12242
Peace officer receiving, must hold	12240
Punishment for receiving.....	11388
presumptive evidence, when...	11388
Receiving is larceny.....	11381
Record of stolen property, where kept	12246
Search-warrant	12395
property, how disposed of.....	12407
Unclaimed, delivery to county treasurer, when.....	12244

STONE

Lease of land valuable for.....	1891
---------------------------------	------

STOPPAGE IN TRANSIT

Consignor may stop, when.....	8396
Effect of stoppage.....	8400
Insolvency of consignee, defined..	8397
Not to defeat purchasers' rights, when	4127
Stoppage, how effected.....	8399
Transit, when ended.....	8398

STORAGE

See also Warehousemen	
Duplicate receipts to be marked "duplicate"	11462
Erroneous receipts, good faith...	11461
Issuing fictitious receipts.....	11460
Rules governing—See Deposit 7660- 7672	
Selling, etc., of property stored..	11463

STORES

Fire-escapes for—See Fire-escapes	2779- 2785
---	------------

STREAMS

See Rivers	
See Accession, Islands, Water and Water-rights	
Appropriation of water from—See Water and Water-rights.	7093- 7127
Deposit of coal slack in.....	11276, 11277
Dumping refuse, from sawmills into, prohibited.....	3718
Obstructing navigation.....	11489

GENERAL INDEX.

STREET RAILWAYS

Assessment of.....	2020
Brakes on cars.....	3066
penalty for failure to provide..	3067
Enclosure on cars, when required	3061
Motor vehicles forbidden to pass	
cars, when.....	1743
Penalty for violation of act.....	3065
Summer cars, how equipped.....	3061
Vestibules of cars to be heated,	
when	3064

STREET-CAR EMPLOYEES

Enclosure for motorman.....	3061
Penalties for violation of act....	3062
prosecution	3063

STREETS

See also Highways.....	1604- 1804
Damage for change of grade—See	
Cities and Towns.....	5300- 5305
Discontinuance of—See Cities and	
Towns	5306, 5307
Injury to trees on.....	11497
Malicious digging or carrying	
away of soil.....	11481
Municipal improvement of—See	
Cities and Towns.....	5225
Placing carcasses in.....	11235

STRIKES

See Arbitration and Conciliation,	
Board of.....	3052- 3060
Advertisement for labor, when in	
progress	11220, 11221
False advertisement, damages....	11222

STUD HORSES

Running at large forbidden..	3397- 3400
------------------------------	------------

STYLE

Of citations.....	10359
Of process.....	19

SUBAGENT

Agent, when responsible for.....	7972
----------------------------------	------

SUBLETTING

Unlawful detainer, when.....	9889
------------------------------	------

SUBMISSION OF CONTROVERSY WITHOUT ACTION

Court to hear and determine....	9872
Judgment	
how enforced or appealed from	9874
how entered.....	9873
roll, what constitutes.....	9873
Trial	9372
Who may submit.....	9872

SUBMISSION TO ARBITRATION

See Arbitration.....	9972- 9981
----------------------	------------

SUBORNATION OF PERJURY

Defined	10889
Penalty for procuring execution	
of innocent person by.....	10890

SUBPOENAS

Arrest for failure to obey	
witnesses exonerated from,	
when	10676

SUBPOENAS (Continued)

Attendance of witness out of	
county, how procured.....	12183
Blank, on application of defend-	
ant	12179
Blanks may be left in justice	
courts	9712
By whom signed and issued.....	12179
Commitment for disobedience to	
.....	10626-10628
Coroner's inquest.....	12383, 12384
Defined	10618, 12179
Disobedience to.....	10624
forfeiture therefor.....	10625
how punished.....	10624, 12184
Duces tecum.....	10618
Expenses of witness from with-	
out county, how defrayed...	12182
For witnesses	
before legislature.....	79, 83
before state board of examiners	236
Forfeiture of undertaking on fail-	
ure of witness to appear....	12185
Form of.....	12180
How issued.....	10619
How served.....	10620
by telegraph.....	9785
In justice and police courts.....	12343
Issuance in special proceedings...	12431
Limit on number in criminal ac-	
tions	4945
Magistrate must issue for whom..	11778
Magistrate to issue, when..	11732, 11778
Number to be issued in criminal	
actions	4945
On hearing for habeas corpus....	12359
Powers of justices of peace to	
issue	9711
Service, how made.....	12181
Service when witness concealed..	10621
Tender of fees on.....	4944
To take depositions.....	12194
for use in foreign states..	10656-10658
Warrant may issue.....	10626
When witness compelled to attend	10622
Who may issue.....	12179
Witness must attend.....	10673

SUBROGATION

Of	
judgment debtor, when.....	9451
surety on appeal bond.....	9830

SUBSCRIBING WITNESS

To wills—See Wills	
Defined	10583

SUBSCRIPTION

Includes mark.....	16
Notes, regulation of.....	5968, 5969

SUBSEQUENT PROSECUTION

Judgment bar to, when.....	11612, 12002
Judgment on demurrer, when bar	
to	11902

SUBSTITUTE

Liability of employee for.....	7782
--------------------------------	------

SUBSTITUTED SERVICE

How obtained.....	9118, 9119
-------------------	------------

GENERAL INDEX.

SUBSTITUTION			SUMMONS (Continued)	
Of parties defendant	9087		Alias	
SUBTENANTS —See Tenants			how and when issued.....	9108
SUBURBAN TRACTS			in justice courts.....	9633, 9634
Plat and survey of.....	4993, 4994		By	
SUCCESSION			publication	9117
Advancements are part of dis-			telegraph or telephone.....	9785
tributive share.....	7082		Certificate of service.....	9110
death of heir of decedent.....	7086		Contents and how issued.....	9107
refund not required.....	7083		Copy, to whom delivered.....	9111
value, how determined.....	7085		Corporations, service on	
what are.....	7084		how made.....	9111
Aliens may inherit, when and how	7088		in criminal actions.....	12231-12239
Defined	7071		when made on secretary of state	9112
Degrees in collateral line.....	7080		Court may extend time for answer	
Degrees in direct line.....	7079		after judgment, when.....	9187
Degrees of kindred, how computed	7076		Form of.....	9107
ascending and descending direct			in actions to quiet title.....	9485
line	7078		How served and returned....	9110, 9111
collateral lines.....	7077		In	
Duty of attorney-general, when			eminent domain proceeding	9939-9941
succession not claimed by			forcible entry and detainer.	9894, 9895
aliens	7089		injunction proceedings.....	9244
Escheats occur, when.....	7090		justice courts	
real property subject to charges	7091		alias, when issued.....	9633, 9634
Illegitimate children inherit,			by whom served.....	9636
when	7074		blanks on, must be filled in by	
Inheritance by representation,			justice	9712
when	7087		certificate on service out of	
Intestate estates, to whom pass..	7072		county	9636
Mother successor to illegitimate			contents of.....	9631
child	7075		endorsement, when defendant	
Order of succession.....	7073		arrested	9655
Relatives of half-blood inherit,			issuance and contents.....	9631
how	7081		served out of county, when..	9635
Representation, inheritance by,			waiver of.....	9628
defined	7087		when issuable.....	9627
Successor, when liable for de-			when returnable.....	9632
cedent's obligations	7092		where it may be served.....	9635
SUCCESSIVE			police courts.....	9726
Actions maintained on same con-			proceedings on escheats.....	9959
tract, when.....	9819		quo warranto, service....	9585, 9586
SUCCESSOR			In actions	
Refusal of officer to surrender			against boats, service....	9610, 9611
books	10832		for partition.....	9523, 9524
SUFFICIENCY			to establish title to property	
Indictment or information, when	11852		granted heirs of deceased en-	
SUICIDE			trymen	9504
Aiding or advising, a felony.....	11261		Judgment against one not served.	9762
SUITS —See Actions			Juries, how summoned.....	8910
SUITS IN FORMA PAUPERIS			Jurisdiction of action, when ac-	
In divorce actions.....	5780		quired	9123
SUMMARY PROCEEDINGS			May be issued, when.....	9106
For possession of real property,			On	
how provided for.....	6747		interpreter	10538
For removal of public officers....	11702		joint debtor	
SUMMER SCHOOLS			affidavit to accompany.....	9764
See Schools, Public.....	1105- 1112		after judgment.....	9762
SUMMONS			not previously served.....	9762
Affidavit of service, when and			partnerships or firms, how	
how made.....	9110		served	9089
			Proceedings on execution, when	
			defendants not all served....	9418
			Proof of service, how made.....	9122
			Provisions as to contempt.....	9784
			Publication	
			in actions to quiet title...9482,	9483
			when and how ordered.....	9117
			contents of summons.....	9119

GENERAL INDEX.

SUMMONS (Continued)

Publication (continued)	
when and how ordered (continued)	
in	
actions for partition.....	9524
justice courts.....	9636
quo warranto.....	9586
manner of.....	9118
order to designate what.....	9118
Received by mail, duty of sheriff.	9120
Return	9124
Service and return, how made	9110, 9111
Service by	
publication, in actions to quiet title	9482, 9483
special constables.....	9719
on	
corporations	9111
counties and cities.....	9111
incompetents	9111
minors	9111
Service of—See Process	
Service on	
certain corporations	
See Corporations.....	12231-12238
deemed personal.....	9115
duty of secretary of state..	9114
fee for.....	9113
how made.....	9111, 9112, 9113
in criminal cases.....	12231
of other notices, how.....	9116
counties	4448
foreign investment companies..	4035
Sheriff to serve papers sent by mail	9120
Time for issuance.....	9106
To jury.....	8910, 8911
Waiver of issuance, when and how	9106
When	
only part of defendants served.	9121
served in actions on joint contracts where one defendant has appeared.....	9106
Witnesses before legislature.....	10845

SUN RIVER PRESERVE

Creation of.....	3763
------------------	------

SUNDAY

Conducting barber business on, forbidden	11040, 11041
Disturbing religious meetings....	11042
Holidays falling on.....	10
Places of amusement prohibited..	11039

SUPERINTENDENT OF BANKS, STATE

See Banks and Banking.....	6014- 6109
----------------------------	------------

SUPERINTENDENT OF CITY AND HIGH SCHOOLS

Consolidation in certain districts—See Schools, Public....	1294- 1301
--	------------

SUPERINTENDENT OF PUBLIC INSTRUCTION

See Schools, Public	
---------------------	--

SUPERINTENDENT OF SCHOOLS

See Schools, Public	
---------------------	--

SUPERINTENDENT STATE FISH HATCHERIES

Appointment and duties.....	3664- 3666
-----------------------------	------------

SUPERINTENDENTS

Solicitation of money from employees, punishment.....	11404
---	-------

SUPERSEDEAS—See Stay

SUPPLEMENTAL PLEADINGS

When allowed.....	9181
-------------------	------

SUPPLEMENTAL PROCEEDINGS

See Executions.....	9454- 9466
---------------------	------------

SUPPLIES

See also State Purchasing Department	284- 293
Election supplies—See Elections..	598- 611
Furnishing for state—See Examiners, State Board of..	254- 259

SUPPORT

In divorce actions—See Divorce.	
.....	5768- 5774
Of husband and wife—See Husband and Wife.....	5782- 5812
Of parent and child—See Parent and Child.....	5830- 5867
Of poor by relatives.....	4522

SUPPORT OF FAMILY

See Probate Proceedings....	10144-10157
-----------------------------	-------------

SUPPRESSION

Of riots—See Riots.....	11655-11667
-------------------------	-------------

SUPREME COURT

Abbreviations permissible.....	8881
Accommodations for, how supplied	8800
Admission of attorneys—See Attorneys-at-Law	8936- 8950
Appeals to, in civil cases—See Appeals	9729- 9753
Appeals to in criminal cases—See Appeals	12105-12132
Appellate, jurisdiction of.....	8804
Application to prove exceptions..	9392
Certiorari in contempt proceedings, power to issue.....	8866
Chief justice	
election and term.....	8790
presides	8799
Clerk of.....	370- 377
must keep roll of attorneys....	8941
Commissioners	
court authorized to appoint judges as.....	8808
appointment and substitution	8808
change of personnel.....	8808
court to direct judges to serve in other districts.....	8809
duties	8808
emergency clause.....	8811
expense	8808
how called.....	8809
oath	8808
salary	8808

GENERAL INDEX.

SUPREME COURT (Continued)

Commissioners (continued)	
stenographer, appointment and salary.....	8810
term.....	8808
Concurrence of majority of justices, when necessary.....	8806
Costs in, schedule of.....	372
Decisions	
concurrence necessary.....	8806
grounds to be stated.....	8801
how given.....	8805
in writing.....	8801
Disbarment, jurisdiction.....	8961
Duty to determine questions of law presented.....	8805
Each justice may issue writs of habeas corpus.....	8806
Equity cases, extent of review...	8805
Habeas corpus, powers of justices to issue.....8806, 8866,	12350
Injunctions	
actions, where instituted.....	8807
may grant or continue, when..	8807
Judgments, power to revise, modify or affirm.....	8805
Jurisdiction	
appellate and original.....8802,	8803
Justices	
additional justices.....8791,	8792
designation of.....	8792
emergency measure.....	8795
purpose of law declared.....	8794
qualifications, salary and powers	8793
term of.....8791,	8792
cannot act as attorneys, when	8869, 8871
chief justice.....	8790
computation of years of office..	8797
election	8790
magistrates	11619
majority must concur, when...	8806
may	
authorize arrest by telegraph	11767
punish for contempt.....	8874
take acknowledgments, affidavits and depositions, where	6905, 8875
must not have partners acting as attorneys.....	8870
number of.....	8790
powers	
as to conduct of proceedings	8873
at chambers.....	8866
out of court.....	8872
to	
administer oaths.....	8873
apportion business district courts, when.....	8832
compel attendance of witnesses	8873
issue habeas corpus, at chambers	8866
issue other writs.....	8866
qualifications	8862
salary	8796
terms of office.....	8790

SUPREME COURT (Continued)

Justices (continued)	
vacancies, how filled.....	8798
when disqualified.....	8868
years of office, how computed..	8797
Majority necessary to quorum or decision	8799
Marshal of, appointment and duties	366- 369
May call jury, when.....	9600
Power	8805
to	
apportion business district courts, when.....	8832
carry into effect.....	8882
establish rules for admission of lawyers.....	8942
Presiding justice.....	8799
Proceedings in English language.	8880
Quo warranto proceedings in—See Quo Warranto.....9576-	9601
Quorum	8799
Remittitur on judgment.....	8805
Reports of decisions—See Reports of Decisions of the Supreme Court.....378-	384
distribution by secretary of state	134
Request for annual appropriation	296
Rooms and equipment, how provided and paid for.....	8800
Rules for admission of attorneys	8942
Salaries of justices.....	8796
restrictions on payment, affidavit	8815
Salaries of officers of court.....	440
Seal	8857, 8858
Settlement of bills of exception.	9392, 12040
Special terms, how called.....	8800
Syllabi of decisions.....	8805
Term of office, how computed....	8797
Terms, when and where held....	8800
Time for taking appeals.....	9732
Vacancy	
how filled.....	8798
proceedings not affected by....	8879
Writs, power to issue, when.....	8803

SUPREME POWER

Expressed by constitution and statutes	5671
--	------

SURETIES

Affidavit of.....	9827
Answer, recovery of personal property	9188
Attorneys as, when prohibited...	8991
Bail bond	
justification	12143-12150
qualifications	12142, 12150, 12153
recommitment, qualifications..	12174
surrender of defendant...	12157, 12158
Bond on appeal to district court, judgment against, when....	12337
Bonds, when acceptable as undertakings	9826
Bound with principal by record, when	10562

GENERAL INDEX.

SURETIES (Continued)

Corporation may become, when..	9826
oath on behalf of.....	9828
For receivers.....	9304, 9305
Form of affidavit to undertaking	9825
In claim and delivery	
exception to.....	9224
justification	9230
not released by second taking.	9228
qualifications	9231
Judgment against sheriff binds...	9824
Justification	
extension of time for.....	9823
form of affidavit.....	9827
in attachment.....	9280, 9281
on	
administrator's bond.....	10093
appeal to district court.....	9757
appeal to supreme court....	9741
claim and delivery.....	9224
giving bail.....	9208- 9210
May state true value of property	
in answer, when.....	9188
On	
appeal, justification.....	9741
appeals to supreme court just- tifi, how.....	9740
justification of.....	9741
arrest	
in justices' courts.....	9653
of person, justification.....	9197
attachment	
in justices' courts.....	9660
justification	9259
bail bonds	
in contempt proceedings....	9914
justification	9210
qualifications	9209
bonds of executors, etc.	
justification	10093, 10094
release of.....	10103, 10104
guardian's bond discharged, when	10458
injunction, justification.....	9246
Official bonds — See Official Bonds	464- 509
release of attachment, justifica- tion	9281
release of defendant, in justices' courts	9669
sheriffs' bonds	
escape of defendant, liability.	9217
judgment	9824
stay, on appeal to supreme court	9735- 9740
undertaking on appeal from jus- tices' courts.....	9757
Principal bound by judgment against, when.....	10562
Qualifications of.....	9827
Subrogation of.....	9451, 9830
Substituted to rights of judgment creditors on appeal.....	9830
To avoid levy of attachment, in justices' courts.....	9661
When	
corporations not to be accepted.	9827
principal bound by a record....	10562

SURETIES (Continued)

When (continued)	
substituted to rights of judg- ment creditors	9830

SURETY COMPANIES

See Insurance Corporations, sub- title surety companies...6206-	6236
Examination by insurance com- missioner	166
On undertakings.....	9826

SURETYSHIP

See also Guaranty	
See also Warranty	
Apparent principal may be surety.	8196
Creditor entitled to securities held by surety, when.....	8209
Judgment against surety, effect of	8199
Limit of surety's obligation.....	8197
Performance exonerates surety...	8200
Principal to reimburse surety....	8205
Property of principal to be taken first	8208
Right to contribution.....	8206
Rights of creditors to securities, when	8209
Rules of interpretation.....	8198
Sureties	
discharge by acts of creditor, when	8201
exonerated, how.....	8200
Surety	
acquires rights of creditor, when	8206
defined	8195
entitled to securities, when....	8207
has rights of guarantor.....	8202
may compel performance, when.	8204
may require creditor to act against principal, when.....	8203

SURGEONS

Exemptions	9428
------------------	------

SURPLUS WATER

Owner must sell.....	7112
----------------------	------

SURPRISE

Amendment on ground of.....	9187
Ground for new trial.....	9397
Opening default for.....	9187

SURRENDER

Of bail—See Bail.....	12157- 12174
-----------------------	--------------

SURVEY

In	
actions to determine claims to mines and other real property	9492- 9494
city lots in partition.....	9532
eminent domain.....	9938
Of county boundaries—See Coun- ties	4298- 4304

SURVEYOR

See Counties	4835- 4847
--------------------	------------

SURVEYORS' MONUMENTS

Of United States, injury to.	11490, 11491
------------------------------	--------------

GENERAL INDEX.

SURVIVAL

- Of actions, when..... 9054
- by and against executors..... 10258
- Presumption as to..... 10606

SURVIVORSHIP

- Thing in action..... 6805

SUSPENDED SENTENCE

- See Sentence.....12078-12084
- Under juvenile delinquent law...
..... 12294-12296

SUSPENSION

- Of death sentence, when....12094-12100
- Officers, effect of judgment..... 11683
- State treasurer by board of ex-
aminers, when..... 190

SUSPENSION OF OWNERSHIP

- Of alienation of trust..... 6733
- Of real property, limitations..... 6732

SWAN

- Killing forbidden..... 3700

SWEARING

- Disturbance of peace..... 11297

SWEET CIDER

- Excepted from prohibition act... 11050

SWEET GRASS COUNTY

- Boundaries and county seat.... 4351

SWIMMING-POOLS

- Authority of cities to establish
and regulate.....5166, 5167

SWINE

- Branding, when running at large. 11553
- Diseased, running at large..... 11556
- Running at large prohibited.3393- 3395

SYNDICALISM

- Criminal, defined 10740

TAIL

- Estates tail, abolished..... 6725

TARIFFS

- Passenger rates within state.... 6586

TAXATION

- Abbreviations, when used..... 2061
- Absent owners, how assessed....
..... 2008, 2009
- Acquisition of property by..... 29
- Actions to
annul tax-deeds 2214
- collect taxes
form of complaint..... 2254
- when to be instituted..... 2253
- recover taxes paid under protest
..... 2269- 2272
- All property subject to..... 1997
- Annual levy by cities and towns.. 5216
- Application for tax-deed..... 2209
- Art galleries, exempt from..... 1998
- Assessment of property
See also subtitle assessor
absent owners.....2008, 2009

TAXATION (Continued)

- Assessment of property (contin-
ued)
affidavit of taxpayer, form of.. 2004
- agents' property, how assessed. 2012
- all property assessed at cash
value 2001
- assessor—See subtitle assessor
- bank stock—See subtitle banks.
..... 2063- 2067
- blanks to be furnished by
county commissioners..... 2004
- bridge tax-levy.....1704- 1710
- bridges, how assessed..... 2020
- canals and ditches, how assessed 2021
- capital stock and franchise of
corporations, how assessed... 2015
- concealed, removed or misrep-
resented property, how assessed. 2033
- consigned property, how as-
sessed 2011
- copy of, delivery to property-
owner 2005
- corporation or firm, how as-
sessed 2013
- county assessor to attend meet-
ings board of equalization... 2118
- credits, how assessed..... 2002
- ditches, how assessed..... 2021
- duty to present statement prop-
erty that has escaped assess-
ment 2118
- electric light lines, how assessed 2021
- executors' property, how as-
sessed 2012
- express and stage companies,
how assessed..... 2017
- ferries, how assessed..... 2020
- firm property, how assessed... 2013
- gas and water companies
how assessed..... 2018
- mains, personal property.... 2019
- guardians' property, how as-
sessed 2012
- how made on refusal of state-
ment 2007
- in another county, how made... 2010
- informality and delay not to
vitiate 2036
- insurance companies
how assessed..... 2111
- method of computing taxable
property 2112
- land
how assessed..... 2023
- improvements assessed sep-
arately 2001
- insertion of name of owner.. 2055
- list of, sold by state to be
transmitted to assessors... 2057
- uniform classification for tax-
ation2024- 2031
- livestock—See subtitle live-
stock
- manufacturing establishments.. 2016
- maps to be furnished assessor.. 2056
- merchandise 2016
- mines—See subtitle mines

GENERAL INDEX.

TAXATION (Continued)

Assessment of property (continued)	
mistake in name, effect of.....	2002
money and property in litigation, how assessed.....	2032
notice of meeting of county board of equalization.....	2052
omitted property.....	2034
partnership property.....	2013
penalty for refusal to furnish statement.....	2006
personal property of merchants and manufacturers, how assessed.....	2016
property	
in litigation, how assessed...	2032
not assessed previous year, how assessed.....	2034
purchased by county.....	2231
situate in another county....	2010
railroads, how assessed....	2021, 2022
stage companies, how assessed..	2017
state board of equalization to assess what property.....	2123
see also subtitle equalization, state board of	
statement to assessor	
blanks, how furnished.....	2004
contents of.....	2003
procedure on refusal of statement.....	2007
to be filled out and returned.	2005
steamboats and vessels, how assessed.....	2017
street railroads, how assessed..	2020
supplemental assessment, when.	2035
telegraph, telephone and other lines	
by state board of equalization—See subtitle equalization, state board of.....	2123, 2138, 2146
lines in one county, how assessed.....	2021
transportation companies.....	2017
trustees, assessment of.....	2012
undistributed property of estates, how assessed.....	2014
unknown or absent owners, how assessed.....	2008
unknown owners, assessment to, when.....	2009
vessels, how assessed.....	2017
water companies, how assessed.	2018
when made.....	2002
Assessment-books	
affidavit to accompany.....	2050
as evidence.....	2216
assessor to complete and make affidavit, when.....	2050
assessor to prepare.....	2048
comparison original and duplicate, when.....	2176
copies to be furnished cities and towns.....	5207
charges for.....	5208

TAXATION (Continued)

Assessment-books (continued)	
defects may be supplied.....	2058
delivery to county clerk, when completed.....	2052
duplicate dispensed with, when.	2168
evidence of what.....	2216
form of.....	2049
land, one description of, sufficient.....	2055
map-book of city blocks.....	2051
notice of meeting of equalization board.....	2052
penalty for failure to complete.	2054
property, how listed in.....	2048
property purchased by county..	2231
to be delivered to and kept by county clerk.....	2052
Assessor	
annual settlement of.....	2042
deputies for.....	2037, 4877
duty to furnish list of property not assessed.....	2118
farm statistics, duty to gather.	2043- 2047
general powers.....	2006
liability for unassessed property, when.....	2039
county attorney to prosecute.	2040
judgment against.....	2041
penalty for failure to transmit statements.....	2054
poll-tax, must keep names of persons subject to.....	2294
power to require statement from railroads, etc.....	2021
statement by, to state board of equalization.....	2053
to be present at meeting of board of equalization.....	2118
to designate city and town property.....	5206
traveling expenses of assessor and deputies.....	2038
Assignment of county's rights in property, form of certificate.	2207
Attorneys' license tax.....	8945- 8947
Bachelor tax.....	2273
Band concerts, levy for.....	5048
Banks	
duty of officers to furnish statement.....	2066
national banks, when shares not taxable.....	2063
state banks.....	2067
statement by private banks and brokers.....	2067
stock in national banks, how assessed.....	2064
taxes, when payable.....	2065
violation of act misdemeanor..	2067
Basis of taxation, percentages....	2000
Blanks, how furnished.....	2004
Building and loan associations, how taxed.....	6363
By cities and towns—See Cities and Towns.....	5194- 5224
Capital stock, how assessed.....	2015

GENERAL INDEX.

TAXATION (Continued)

Capitation tax—See Poll-tax	
Cement dealers' license tax	
amount of.....	2368
board of equalization to fix tax,	
when	2374
attorney-general to prosecute.	2374
penalty added.....	2374
disposition of tax.....	2378
expiration of license.....	2375
failure to file statement unlaw-	
ful	2373
invoices to state whether tax	
paid	2376
license fee, when payable.....	2370
license tax supplemental.....	2380
license to be posted.....	2377
manufacturer to deliver invoice	
of product sold.....	2376
to state whether tax paid....	2376
payment of license tax.....	2372
penalty for violation of act....	2379
person defined.....	2367
quarterly payment of tax.....	2370
quarterly statement by dealers.	2372
filing	2372
form and contents of.....	2372
verification of.....	2372
record of cement received to be	
kept by dealers.....	2371
subject to inspection.....	2371
sale of cement, etc., tax on....	2368
state treasurer to issue license,	
when	2377
statement to be filed with board	
of equalization.....	2369
form and contents.....	2369
term of license.....	2377
Cement producers' license tax	
amount of tax on manufacturers	
of cement, etc.	2357
board of equalization to fix tax,	
when	2363
attorney-general to prosecute.	2363
penalty added.....	2363
disposal of tax.....	2364
failure to file statement unlaw-	
ful	2362
license tax supplemental.....	2366
penalty for violation of act....	2365
person defined	2356
quarterly payment of.....	2358
quarterly statement by pro-	
ducers	2361
contents of.....	2361
verification of statement....	2361
records to be kept by producers	2360
statement when business con-	
ducted at more than one place	2361
statements to be filed with	
board of equalization.....	2359
contents of statement.....	2359
tax payable quarterly.....	2358
tax, when payable.....	2361
Cemeteries exempt from.....	1998
Certificate of tax sale	
assignment, form of.....	2207, 2208
county clerk to file and enter..	2204

TAXATION (Continued)

Certificate of tax sale (continued)	
duplicate to be given.....	2194
lien of state vests in purchaser,	
when	2197
signature and copies.....	2195
treasurer to enter description of	
land sold.....	2196
treasurer to issue duplicate....	2194
Certificates of purchase of state	
land	1868
Church property, when exempt...	1998
Cities and towns—See Cities and	
Towns	5194-5224
Classification of lands—See sub-	
title lands.....	2024-2031
Classification of taxable property	1999
percentage basis for levy of tax	2000
Coal dealers' license tax	
board of equalization to de-	
termine tax, when.....	2334
amount of.....	2328
attorney-general to bring suit	2334
penalty added.....	2334
state treasurer to collect....	2334
disposal of license fees.....	2341
expiration of license.....	2335
failure to make statement un-	
lawful	2333
fee for.....	2328
full weight of coal required...	2336
invoice of coal sold to be deliv-	
ered	2339
license fee, when payable.....	2330
license tax supplemental.....	2343
license to retail coal.....	2328
mine operator defined.....	2327
misrepresentation in sale of coal	
forbidden	2337
penalty for violation of act....	2342
person defined.....	2327
procedure to determine in ab-	
sence of statement.....	2334
quarterly instalments.....	2330
record of coal sold for retail...	2331
contents of.....	2331
revocation of license by board	
of equalization.....	2338
state treasurer to issue license..	2340
statement, duty of dealers to file	2329
contents of.....	2329
statement of coal sold	
form of.....	2332
when made.....	2332
where filed.....	2332
Coal mines' license tax	
amount of tax, proviso.....	2317
certain persons to file state-	
ments with board of equal-	
ization	2319
contents of statement.....	2319
disposal of tax.....	2324
exceptions	2317
license tax supplemental.....	2326
payment of tax.....	2321
penalty for violation of act....	2325
procedure to determine on fail-	
ure of statement.....	2323

GENERAL INDEX.

TAXATION (Continued)

Coal mines' license tax (continued)	
quarterly payment of tax.....	2318
record of coal to be kept.....	2320
statements	
duty to file.....	2322
filing of.....	2321
of coal produced to be filed..	2321
penalty for failure to make..	2323
verification.....	2322
who must pay tax.....	2317
Collection in case of double assessment.....	2223
Collection of	
from persons removing to another county.....	2226
in territory detached from county or city.....	4420
Collection of personal property taxes not a lien on real estate assessor to report to treasurer. collection of deficiency where higher rate is fixed.....	2238
excess or deficiency to be noted by clerk.....	2249
excess proceeds, how disposed of excess to be returned.....	2252
fee and mileage for sale.....	2245
notice of sale.....	2248
rate of tax, how governed....	2243
record by treasurer.....	2242
report to be noted by assessor..	2247
sale, how conducted.....	2250
seizure and sale, how conducted	2251
title to property vests, when..	2241
treasurer to collect, how.....	2240
unsold portion at owner's risk..	2244
Collection of taxes by suit	2239
complaint, form of.....	2246
judgment.....	2253
state auditor to direct treasurer to collect.....	2254
when and by whom collected..	2253
Collection of taxes when county divided or altered.....	4304
Comparison original and duplicate assessment-books.....	2176
Concealed property, how taxed...	
.....	2033
Consigned property, how assessed.	2011
Contests before county board of equalization.....	2270
Corporate property, when assessed	2013
Corporation license tax	
assessment of fee, notice of...	2299
exemption from.....	2296
license fee, how computed.....	2299
net income corporations within and without state, how ascertained.....	2298
business done in state, how computed.....	2298
deduction of	
expenses.....	2298
interest.....	2298
losses.....	2298
other deductions.....	2298

TAXATION (Continued)

Corporation license tax (continued)	
net income corporations within state, how ascertained.....	2297
deduction of	
expenses.....	2297
interest.....	2297
losses.....	2297
other deductions.....	2297
notice of assessment.....	2300
partial invalidity not to vitiate.....	2304
penalty for failure to pay.....	2300
penalty for false returns.....	2301
records open to inspection....	2302
return of annual and net income.....	2299
filing of.....	2302
proceedings on, under statement of.....	2303
what corporations exempted...	2296
what corporations liable for...	2296
County board of equalization—See subtitle equalization, county board of	
County clerk, duties in relation to taxation	
charges county treasurer with taxes, when.....	2163
computes and foots up taxes...	2160
delivers duplicate assessment-book to treasurer.....	2161
enters charges made by state board of equalization.....	2159
enters total valuation	
keeps original assessment-book	2162
penalty for neglect of duty....	2166
prepares duplicate assessment-book.....	2157
transmission of same.....	2158
returns receipts to treasurer...	2292
to be credited to clerk.....	2293
transfers from one treasurer to another, when.....	2165
verifies statement by affidavit..	2164
County free library, levy for....	4568
County high school tax-levy..	1275-1281
County treasurer to settle with commissioners, when.....	2174
credit on settlement.....	2179
County treasurer, when charged with delinquent taxes.....	2180
Credit defined.....	1996
Date of payment to be noted.....	2171
Date of sale of property for 1920 delinquent taxes.....	2198
Deeds—See subtitle tax-deeds	
Defects in assessment-books....	2058
Defects in delinquent lists, how corrected.....	2059
Definition of terms.....	1996
Delinquent taxes	
additional penalty collected...	2188
credit for, to be given treasurer	2179
defects in delinquent lists, correction of.....	2059
publication, how made.....	2060

GENERAL INDEX.

TAXATION (Continued)

Delinquent taxes (continued)	
delinquent lists, publication of	2182, 2183
affidavit of publication.....	2187
comparison with unpaid assessments	2217
contents of.....	2178
copy of publication to be filed	2187
manner of publication.....	2184
notice of sale to accompany..	2183
publication of list.....	2182
publication to designate what treasurer's affidavit endorsed on, when.....	2220
when completed.....	2177
notice of delinquency, when published	2169
manner of publication.....	2170
penalty added.....	2175, 2188
postponement of sales for 1921	2198, 2199
publication of delinquent list..	2182
rate of interest on.....	2221
sale, when and where to take place	2186
See also subtitle sale of property for taxes.....	2189-2197
statement transmitted to state auditor	2181
treasurer charged with, when..	2180
when delinquent.....	2175
Departments defined.....	1996
Deputy county assessor, appointment	2037
Ditches, assessment of.....	2021, 2123, 2138-2146
Duplicate assessment-books	
comparison with original.....	2176
delivery to treasurer.....	2161
dispensed with, when.....	2167, 2168
in cities and towns.....	5211-5213
preparation of.....	2157
transmission to whom.....	2158
Educational bonds, levy for payment of.....	5612
Electric light lines, how assessed	2021
Entry of taxes by county clerk..	2160
Equalization, county board of	
assessor to be present at sessions	2118
assessor to transmit statement to	2053
composition of.....	2113
contest of assessments before..	2270
county clerk to keep record of proceedings	2121
empowered to equalize assessments	2114
examination of persons assessed	2116
may direct assessment of property, when.....	2120
notice to persons interested.	2120
meetings, when held.....	2113
notice of meeting, clerk to publish.	2052

TAXATION (Continued)

Equalization, county board of (continued)	
notice to property-owner of changes	2270
record of proceedings.....	2121
records to be used in equalizing	2119
reduction, how made.....	2115
statement of property not assessed	2118
verification of record.....	2121
when to meet.....	2113
witnesses to be subpoenaed....	2117
Equalization, state board of	
appeals to.....	2124
assessment of railroads and other utilities by...2123, 2138-	2146
changes to be sent to county clerk	2125
composition of.....	2122
duties	2123
employment of help by.....	2130
equalization of property by...	2123
expenses, allowance of.....	2129
freight line companies, assessment of.....	2101-2106
general powers and duties.....	2123
hail insurance, duties concerning	351
meetings	2123
oath, administration of.....	2128
penalty for failure to obey orders of.....	2127
powers and duties.....	2123
railroads, assessment by—See subtitle railroads	
rate of state tax determined by telegraph, telephone, power and other lines, assessment of... ..	2133, 2138-2146
what property assessed by....	2123
Errors in publication, correction of	2059
Estate taxes to be paid before distribution	2173
Evidence on trial of suit to collect taxes	2227
Exception from repealing clause..	2107
Exemption of cemetery property from	6486
Exemptions from taxation.....	1998
Exemptions of property of militia	1372
Expense eradiction of weeds, how levied	4511
Expenses of state board of equalization	2129
Expenses of suit to collect, how paid	2228
Express companies' license tax	
action by attorney-general....	2309
collection of tax.....	2311
definition of express companies.	2305
disposal of license fees.....	2311
exemption from other taxes....	2313
gross receipts	
how ascertained.....	2307
to be entered.....	2311
license fees	
amount and collection of....	2311
collection by suit, penalty...	2312

GENERAL INDEX.

TAXATION (Continued)

Express companies' license tax (continued)	
penalty for	
disobedience to subpoena....	2310
failure to make statement...	2309
refusal to produce books....	2310
procedure on failure to make statement	2308
state treasurer to collect tax..	2311
statements, when and where filed, contents.....	2306
False statement as to.....	11324
Final settlement of treasurer with clerk	2219
Fines and forfeitures, disposal of	2062
Fire district bonds, levy for....	5153
Fire insurance companies for sup- port fire marshal.....	2761
Firemen's disability fund, levy for, by cities.....	5119
Fiscal year commences, when....	2147
Franchises, how assessed.....	2015
Freight-line companies	
board to enter certain facts in books	2105
cars, situs for taxation.....	2098
certification to state treasurer.	2105
defined	2097
delinquent taxes	
penalty added.....	2108
sale of property for.....	2108
when delinquent.....	2108
disposal of taxes.....	2110
duty to file statement.....	2099
enforcement of payment, pro- ceedings for.....	2109
failure to file statement, proced- ure on.....	2102
gross earnings, how determined by state board of equalization	2101
levy of tax.....	2101
penalty for disobedience.....	2104
power to administer oaths....	2104
power to compel production of evidence	2104
powers of board to require at- tendance of officers.....	2104
procedure on failure to file statement	2102
protest and review by state board of equalization.....	2103
state board of equalization, duties concerning.....	2103-2105
state treasurer to collect tax..	2106
statements to be filed with state board of equalization....	2099
contents of.....	2099
statements total gross earnings to be mailed company....	2103
correction of findings.....	2103
limitation on acts.....	2103
protests	2103
tax, how and by whom collected	2106
total gross earnings	
defined	2100
how determined.....	2101
treasurer to collect tax.....	2106

TAXATION (Continued)

Gasoline dealers' and distributors' license tax	
dealer defined.....	2381
dealers	
to keep records.....	2385
to make quarterly statements	2386
contents of statement.....	2386
to pay license tax.....	2383
exemptions	2383
definition of terms.....	2381
disposal of license tax.....	2392
distributor defined.....	2381
distributors to	
keep records.....	2385
make quarterly statements..	2386
contents of statement.....	2386
pay tax.....	2382
amount of tax.....	2382
exemption of certain gas- oline	2382
duty to make statements.....	2388
export sales excepted.....	2391
gasoline license tax fund.....	2394
apportionment	2394
creation	2392
invoice on sales in original packages	2390
license tax supplemental to other fees	2396
payment of license tax.....	2387
penalty for failure to make statements	2388
penalty for violation of act....	2395
person defined.....	2381
procedure to collect in absence of statement.....	2389
quarterly payment of taxes....	2383
quarterly reports of distributors	2386
records, who to keep.....	2385
sales in original packages in- voiced to purchaser.....	2390
statement to school officers as to number of teaching posi- tions	2393
treasurer, statement to.....	2386
violation of act.....	2395
General road tax.....	1617
Glacier park, reservation of rights in	22
Hail insurance.....	351
Highways, extra tax-levy for.4714-	4716
Hospitals exempt from.....	1998
Improvements defined.....	1996
Increased taxes, actions to contest	2270
Inheritance tax—See Inheritance Tax	10377-10400
Injunction to lie, when.....	2268
Insurance companies	
how assessed.....	2111
taxable property, how computed	2112
Interest on delinquent taxes for 1920	2200
Interest rate on delinquent taxes.	2221
Judgment, tax operates as.....	2152

GENERAL INDEX.

TAXATION (Continued)

Lands

classification for assessment made on basis of.	2030
classification fund, creation..	2027
classification in counties, duties county commissioners..	2025
dissatisfied owners, procedure investigation by county commissioners	2031
lands to be classified.....	2024
new county to assume portion of debt.....	2027
notice to land-owner.....	2031
preparation of plats, how classified	2026
prior contracts validated....	2027
purpose of classification.....	2029
supplemental contracts, regulation of.....	2027
tax-levy	2028
how assessed.....	2023
insertion of name of owner....	2055
irregularly assessed not to be sold for taxes.....	2224
list of lands sold by state to be furnished	2057
state lands, taxation of, on sale	1868
rebate on reversion of land..	1870
Levy of taxes	
ad valorem rate, how fixed.....	2149
amount of state levy.....	2147
by county commissioners, limitation on.....	4465
common school levy.....	1202
by legislature.....	2155
special school tax.....	1203
county commissioners, failure to levy, result of.....	2151
county rate, how fixed.....	2150
fiscal year commences, when...	2147
for	
eradication of orchard pests..	3617
hail insurance	351
poison to kill gophers....	4495, 4496
public library.....	5049
rural school districts.....	1044
school purposes.....	2155
special road districts	
county assessor to report assessed valuation.....	1660
county treasurer to keep road funds.....	1661
support of university of Montana	2148
legislature to levy what...	2147, 2155
lien of tax.....	2152-2154
state tax rate, how determined	2126
to pay	
bonds of cities and towns...	5283
bonds of irrigation districts..	7235
interest and bonds of veterans' welfare fund.....	5665
seed-grain warrants and bonds	4657, 4658
to redeem bonds of fire districts	5153
License taxes, power of cities to levy	5224

TAXATION (Continued)

License taxes, power of cities to levy (continued)

See also following subtitles	
cement dealers' license	
cement producers' license tax	
coal dealers' license tax	
coal mines' license tax	
corporation license tax	
express companies' license tax	
gasoline dealers' and distributors' license tax	
metalliferous mines' license tax	
sleeping-car companies' license tax	
Licenses—See Licenses.....	2410-2443
Lien of taxes.....	2152
on personal property a lien on realty	2153
on realty and improvements...	2154
when to vest in purchaser....	2197
Limitations on actions against tax collectors	9034
Livestock	
belonging to permanent resident, where assessed.....	2068
bounties, special levy on, to pay	2076-2087
migratory livestock	
apportionment of taxes on...	2071
assessment of.....	2069
collection and disposal of tax.	2072
defined	2069
distribution of migratory stock fund.....	2073
liability of owner.....	2069
livestock in pens.....	2069
owner to make statement....	2069
statement on removal to another county.....	2070
penalty for violation of act..	2075
removal of, after assessment, effect on division of tax...	2074
where assessed.....	2069
tax-levy, additional, to pay expense of enforcing stock law	2076
amount of levy.....	2078
emergency fund.....	2078
livestock sanitary board fund	2079
separate levies, division of..	2078
state board of equalization to prescribe	2077
stock inspection and detective fund.....	2079
transmission from county to state treasurer.....	2080
tax-levy, special county, on petition	
amount of bounty.....	2083
county bounty fund.....	2084
existing laws not affected...	2087
forms, county clerk to provide	2086
petition for.....	2082
presentation of skins.....	2085
tax-levy to pay bounties for killing wild animals	
amount of.....	2081

GENERAL INDEX.

TAXATION (Continued)

Livestock (continued)	
tax-levy to pay bounties for killing wild animals (continued)	
state board of equalization to prescribe	2081
use of money.....	2081
Map-books prepared by assessor...	2051
Maps to be provided assessor.....	2056
Mercantile and manufacturing establishments, how assessed...	2016
Metalliferous mines' license tax	
amount of tax.....	2346
board of equalization to compute license.....	2348
contents of notice.....	2348
corrections by board of equalization	2351
delinquency, penalty for.....	2349
disposal of moneys.....	2354
false returns, powers board of equalization	2351
forms, preparation by board of equalization	2347
license tax supplemental.....	2355
license tax to be paid.....	2345
lien of tax upon property.....	2353
net proceeds, how computed...	2347
penalty for failure to make return	2350
collection of tax and penalty	2350
penalty for false return.....	2351
penalty for refusal to permit examination	2351
person defined.....	2344
proceedings on correction of error	2352
receipts of mines included.....	2345
rehearing by board of equalization	2352
petition for.....	2352
rehearing, procedure on.....	2352
renters to pay, when.....	2345
state treasurer to issue license.	2345
taxes delinquent, when.....	2349
who must pay.....	2345
Military service, suspension of taxes for.....	2236, 2237
Mineral reservations, value, how determined	1999
Mines, how taxed.....	2088
Mines, tax on net proceeds	
assessment-roll on net proceeds	2091
certification of net proceeds to county clerk.....	2091
collection of tax.....	2095
contents of statement net proceeds	2089
entry on assessment-roll.....	2091
examination of records by state board of equalization.....	2094
false statement, perjury.....	2093
gross proceeds, how computed..	2090
gross yield, statement of.....	2089
improvements, not exempt.....	2096
lien of tax.....	2095
net proceeds, how computed...	2090

TAXATION (Continued)

Mines, tax on net proceeds (continued)	
other improvements not exempt	2096
penalty for false statement....	2093
penalty for violation of act...	2092
state board of equalization to compute gross proceeds, when	2090
state board of equalization to estimate net proceeds, when..	2092
statement of gross value to be made	2089
delivery to board of equalization	2089
form of.....	2089
surface grounds not exempt....	2096
tax, how rebated and collected	2095
Mistakes	
effect on assessment.....	2002
in tax sales, effect of.....	2225
not to affect sale of land.....	2225
Mortgages exempt from taxation.	1998
Municipalities, taxation by—See Cities and Towns.....	5194- 5224
Notice of	
delinquency, publication of....	2169
meeting board of equalization..	2052
postponement of delinquent tax sale 1920.....	2199
Oath of treasurer to delinquent list.	2118
Obstructing collection.....	11322
Of building and loan associations	6363
Oil producers' license tax	
board of equalization to determine tax, when.....	2405
action for review forbidden..	2405
penalty	2405
conducting business, what constitutes	2398
deduction of oil used in operation	2400
development work excluded....	2398
disposal of license tax.....	2406
employees and others excluded.	2398
failure to file statement unlawful	2404
gross value of oil, how determined	2400
license tax supplemental.....	2408
oil subject to tax.....	2398
one per cent tax on value of oil, when paid.....	2398
payment of license tax, when..	2403
penalty for violation of act...	2407
person defined.....	2397
quarterly payment of license tax	2399
quarterly statement of production	2403
verification of.....	2403
record of oil produced.....	2402
statement to board of equalization	2401
contents of.....	2401
Omissions from assessment-book supplied	2058

GENERAL INDEX.

TAXATION (Continued)

Payment of taxes	
before distribution of estates..	10331
date to be marked.....	2171
marked paid, when.....	2176
on estates of decedents.....	2173
receipt to be given.....	2172
settlement of treasurer with county clerk.....	2174
under protest—See subtitle pro- test	2268- 2272
Penalty for	
assessor failing to transmit statement	2054
delinquent taxes.....	2175, 2188
collection by treasurer.....	2188
failure to obey orders of state board of equalization.....	2127
violation migratory stock law..	2075
Percentage basis of taxes.....	2000
Personal property	
defined.....	1996
includes gas and water mains..	2019
sale of—See subtitle sale of per- sonal property	
taxes, collection of.....	2238- 2252
Poll-tax	
additional tax, who liable for..	2273
age for.....	2273
assessor to keep list of persons subject to.....	2294
bachelor tax.....	2273
blank receipts to be furnished.	2275
delivered and charged to as- sessor	2279
style changed annually.....	2276
collection by seizure of property corporations liable for.....	2280 2283
assessor to require statement from	2284
seizure of property of.....	2285
who are debtors.....	2286
county clerk to sign blanks...	2278
county treasurer, duties concern- ing receipts.....	2277
debtor may charge creditor, when	2287
debtors to pay taxes of persons refusing	2282
exemption of national guard from	1401
illegal blank receipts.....	11326
in cities and towns.....	5039
monthly settlement by assessor or road, improper receipt.....	2290 11325
persons not heads of families, amount of tax.....	2273
proceeds paid to poor fund....	2295
receipt delivered to purchaser of property at sale.....	2288
evidence of payment only....	2289
return of receipts and settle- ment with assessor.....	2291
return of unused receipts by clerk to treasurer.....	2292
treasurer to credit clerk.....	2293
road poll-tax.....	5219
seizure and sale, how made....	2281

TAXATION (Continued)

Poll-tax (continued)	
when collected.....	2274
who liable to.....	2273
Postponement tax sales for 1921	2198, 2199
Power lines—See subtitle tele- graph, telephone and power lines	
Property	
assessed more than once, pro- cedure	2223
defined	1996
how classified.....	1999
of new counties.....	4398- 4401
purchased by county assessed next year.....	2231
sold to county	
distribution of money.....	2234
redemption of.....	2233
subject to.....	1997
Prosecution delinquent revenue of- ficers	2266
Protest	
against invalid sales.....	2229
duty of treasurer.....	2230
license fund.....	2409
payment under	
action to recover on increase by board of equalization..	2270
actions to recover when paid under protest.....	2269
time for commencement of.	2269
injunction to lie, when.....	2268
other remedies superseded...	2272
refund of illegal tax.....	2271
Public property exempt from....	1998
Publication of	
corrections in delinquent tax-list	2183
delinquent tax-list.....	2182
how made.....	2184
notice of sale attached to...	2183
to designate what.....	2185
notice of delinquency.....	2169
Railroads	
assessment by state board of equalization, when.....	2123
assessment, how made 2021, 2022,	2132
basis of taxation.....	2137
county commissioners to enter assessment, when.....	2134
dissatisfied owners, application for correction.....	2135
record of apportionment of....	2136
record of assessment of.....	2136
statement by board of equaliza- tion to county clerk.....	2133
duty of clerk to enter same..	2133
statement to be filed with state board of equalization.....	2131
contents of.....	2131
Rate of county tax, how fixed...	2150
Rate of state tax, how determined	2126
ad valorem rate fixed by state board of equalization.....	2149
Real estate defined.....	1996
Rebate of taxes on lands reverting to state.....	1870

GENERAL INDEX.

TAXATION (Continued)

Receipt for taxes to be given....	2172
Redemption from tax sales	
affidavit showing giving of notice to be filed.....	2212
by incumbrancers, how made...	2211
clerk to note redemption in book	2205
of property sold to county....	2233
distribution of money.....	2234
payment and credit, how.....	2202
payment of subsequent taxes and interest.....	2210
redemption to be noted in book	2205
time for making.....	2201
treasurer's deed to issue, when.	2206
treasurer's report of persons entitled to money.....	2203
unredeemed property, sale of, by commissioners	2235
when may redeem.....	2201
who may redeem.....	2201
Refund of taxes illegally collected on judgments for recovery.....	2271
Refusal	
give names of employees.....	11327
list property.....	11323
permit inspection of books.....	11330
Remission claims for refund....	2200
Remission of penalty for year 1920	2200
Reserve rights to explore lands, how valued.....	1999
Road poll-tax in cities.....	5219-5223
Road poll-tax special road districts	1663
Road tax-levy.....	1617-1620
Rural school districts, levy and amount in.....	1044
Sale of property for taxes	
additional penalty payable on redemption	2197
assignment of county's rights, certificate of.....	2207
to what sales applicable....	2208
county may purchase, when...	2191
designation of portions to be sold	2191
duplicate certificate of sale to be given.....	2194
signature on.....	2195
entry of descriptions in book...	2196
land irregularly assessed not to be sold.....	2224
lien of state, when to vest....	2197
manner of conducting sale....	2189
mistakes not to affect sale, when	2225
postponement of sale, when....	2190
postponement of sales for year 1921	2198, 2199
property purchased by county to be sold, when.....	2231, 2232
protest against invalid sales...	2229
duty of treasurer.....	2230
purchaser's certificate.....	2194
signatures and copies.....	2195
redemption from—See subtitle redemption from tax sales	
refusal of bids, when.....	2193
remission of penalty for 1921...	2200

TAXATION (Continued)

Sale of property for taxes (continued)	
resale, when.....	2192
seizure and sale of personal property	
disposal of excess.....	2245
how conducted.....	2241
notice of sale.....	2242
title, when to vest.....	2244
treasurer's charges and mileage	2243
unsold portion at owner's risk	2246
to be struck off to county, when	2191
unredeemed property, when sold	2235
School tax, levy by legislature...	2155
common school levy.....	1202
district school tax in excess of ten mills, election on....	1219-1223
special school tax.....	1203
Settlement of county treasurer, when	2174
final settlement with clerk....	2219
Settlement with state officers	
county clerk to report to state auditor	2257
penalty for failure to make..	2259
report, how and to whom transmitted	2258
county treasurer to file copy with county clerk.....	2262
county clerk to make entries	2263
county treasurer to settle with state auditor.....	2255
deductions on settlement....	2260
penalty for failure to settle..	2256
mileage and expenses allowed county treasurer.....	2264
prosecution of delinquent revenue officers.....	2266
employment of special counsel	2267
state auditor may examine books of revenue officers....	2265
state auditor's statement, contents of.....	2261
Societies, property of, when exempt	1998
Special	
assessments in cities and towns, how collected.....	5251
bridge tax.....	1704
levy for support of educational institutions	4608
tax	
for accredited high school classes	1281
for bridge construction.....	1710
in road districts.....	1659, 1663
State	
board of equalization, powers concerning taxation freight-line companies—See subtitle freight-line companies.....	2097-2107
land agent to transmit list of sales to assessor.....	2057
lands after sale, how.....	1868
rebate on reversion to state.	1870
may acquire property by.....	29

GENERAL INDEX.

TAXATION (Continued)

State (continued)	
rates fixed by board of equalization	2149
tax-levy of three and one-half mills	2148
Statistics, duty of assessor to collect	2043-2047
Sufficient levy for budget to be made	227
Suits to collect taxes—See subtitle collection of taxes by suit	
Suspension of taxes	
affidavit for	2237
when authorized	2236
Tax to operate as judgment or lien	2152
Tax-deeds	
actions to annul, limitations on	2214
application for	2209
assessment-books, evidence of what	2216
evidence of what	2213, 2214
fees for	4920
form of	2213
no charge for making	2206
notice of application for	2209
form of notice	2209
posting and mailing	2209
notice, proof of giving to be filed	2212
prima facie evidence of what	2213
title conveyed by	2215
to issue, when	2206, 2212
Taxpayers defined	544
Taxpayers only, to vote at bond elections	1253
Telegraph, telephone and electric power lines	
assessment	
by state board of equalization	2123
books of state board of equalization, contents	2146
when situate in one county	2021
county assessor to transmit statement to board	2139
county clerk to transmit statement	2139
hearing before board	2141
may be ordered, when and how	2142
meeting of state board of equalization to assess	2143
officers to furnish statement to state board of equalization	2138
contents of statement	2138
order by county commissioners declaring value	2145
transmission of statement of amount apportioned to counties	2144
valuation, how determined	2143
Transfers in contemplation of death, when deemed	10377
Traveling expenses of assessor and deputies	2038
Treasurer to collect tax	2239
Treasurer's affidavit endorsed on list	2220

TAXATION (Continued)

Treasurer's deed to issue when property not redeemed	2206
charges for	2206
Uniform land classification—See subtitle lands	2024-2031
Unredeemd property, sale of	2235
Value defined	1996
War defense bonds, levy for payment of	5630
Water users' associations exempt from what	147
Yellowstone park, reservation of rights in	23

TAX-DEEDS

See Taxation	2209-2215
------------------------	-----------

TAXES

Are incumbrances	6875
Covenants for payment of, when run with the land	7419
Life tenant must pay	6776

TAXIDERMISTS

License for	3751
Reports of	3751

TEACHERS—See Schools, Public

Abuse of, penalty	11527
Exempt from jury duty	8893
Exemptions	9428
Use of force by, when lawful	10980

TEACHERS' INSTITUTES

See Schools, Public	1105-1112
-------------------------------	-----------

TEAMSTERS

Exemptions	9428
----------------------	------

TECHNICAL WORDS

How construed	15
In contracts	7536
In wills	7026

TECHNICALITIES

Supreme court to disregard on appeal	12125
--	-------

TELEGRAMS

Altering, punishment	11495
Arrests by, procedure	11767, 11768
Bribing operators	11519
Disclosing contents of, punishment	11494
Employee, using information from	11517
Forgery of messages	11359
Neglect or postponement of delivery, punishment	11516
Opening, when unauthorized, punishment	11496
Order of transmission of messages	7875, 7876
damages for postponement	7877
Secretly learning contents of	11518

TELEGRAPH AND TELEPHONE COMPANIES

Are common carriers	7846
Articles of incorporation, contents	5906
Assessment by state board of equalization—See Taxation	

GENERAL INDEX.

TELEGRAPH AND TELEPHONE COMPANIES (Continued)

Consolidation of competing lines forbidden	6647
Consolidation with foreign companies	6001
Degree of care required.....	7845
Must maintain telephones in office	6579
Obligations of.....	7844
Right to connection with other lines, how exercised.....	6646
Right-of-way for pole-lines along highways granted.....	6645
construction, how regulated...	6645
Service of papers by, how and when made.....	9785

TELEGRAPH AND TELEPHONE LINES

How assessed—See Taxation	
Malicious injury to.....	11466

TELEGRAPHERS

Railroad, intoxication on duty...	11253
-----------------------------------	-------

TELEPHONE

Employment of children under sixteen forbidden.....	3095
Hours of labor of operators—See Hours of Labor.....	3074, 3075
Maintenance in offices railroads, telegraph and express companies	6579

TENANCY

See Landlord and Tenant for main treatment of subject	
At will, how terminated.....	6744
By courtesy abolished.....	5812

TENANTS

See Landlord and Tenant for main treatment of subject	
See also Forcible Entry and Detainer	9887-9906
Action against cotenant for injury to property, when.....	9091
Adverse possession, when affected by relation.....	9023
Attornment unnecessary, when...	6872
Compensation on partition sales.. ..	9549, 9550
Duties of tenants for life.....	6776
For years not affected by judgment in partition.....	9538
Husband and wife as joint tenants	5789
May deduct cost of fire-escapes, when	2783
Notice	
by mail.....	9890
to quit.....	9889
Relief against forfeiture of lease	9906
Right of joint tenants to sue or defend, how.....	9085
Right to remove fixtures, when...	6825
Rights of tenant for life.....	6760
Rights of tenant for years...6761, may harvest crops at end of term	6761

TENANTS (Continued)

Term of hiring, when presumed..	7743
Termination of, notice not necessary, when.....	6748
Termination of tenancy by notice. effect of notice.....	6744, 6745
re-entry, when and how made..	6746
summary proceedings for termination	6747
Treble rent for real property as damages, when.....	8694
Treble rent for wilful holding over, when.....	8695
When guilty of unlawful detainer	9889

TENANTS IN COMMON

Action against, for waste.....	9475
Action by, against cotenant.....	9091
Devises in will take as.....	7049
Interest in property, what consists	6682
Parties to actions.....	9085
When estate created.....	6683

TENDER

Before suit, effect on costs.....	9794
Objections to, must be specified..	10682
Of payment of money, deposit in banks	7446
Offer in writing, when equivalent to payment.....	10680

TENEMENT-HOUSES

Regulation of papering—See Wallpaper	2499-2502
--	-----------

TERM

See also Punishment	
Of hiring, when presumed.....	7743
Of office, when not fixed by law..	422

TERM OF OFFICE

See also particular offices	
District judges	8813, 8818
Justices of peace.....	8837
Justices of supreme court.....	8790

TERMINAL GRAIN ELEVATOR

Board of examiners to sell bonds, when	1596
Board of managers	
bond and oath.....	1600
compensation	1594
composition and term.....	1592
duties	1595
organization	1593
Bonds	
authorization of issuance.....	1583
ballots and voting.....	1590
condition of bonds.....	1585
denomination, terms and interest	1584
disposal of, at not less than par	1589
election on issuance.....	1590
expenditure of money.....	1591
form and execution.....	1588
Charges for storage.....	1586
Construction of elevator.....	1597
advertisement for.....	1597
claims for, how paid.....	1597
plans and specifications for...	1597
site for.....	1597

GENERAL INDEX.

TERMINAL GRAIN ELEVATOR

(Continued)

County assessors to designate land for taxation.....	1587
Inspection of grain.....	1599
Money, how expended.....	1591
Operation of.....	1598
Penalty for official misconduct...	1602
Report of managers to governor..	1598
Rules and regulations.....	1598
Superintendent, employment and salary	1598
Terminal elevator fund.....	1601

TERMS OF COURT

District courts	
in districts	
having more than one judge	8832
of more than one county.....	8827
supreme court may apportion, when	8832
when and where held.....	8826
court may adjourn, when....	8826
Supreme court.....	8800

TERRITORIAL JURISDICTION

Of state.....	20
---------------	----

TESTIFY

Meaning of term.....	16
----------------------	----

TESTIMONY

See also Evidence	
See also Witness	
How and by whom kept on preliminary examination.....	11784
who may examine.....	11784
How taken.....	10631
Magistrate to return testimony to court, when.....	11796
Of defendant in criminal actions, rule governing.....	12177
Of one codefendant not to be used against another.....	12178
Proceedings to perpetuate—See Perpetuation of Testimony....	
.....	10686-10692
Reduced to writing in homicide cases	11783
how signed and authenticated..	11783
Term "testify" includes what....	10713
What returned to court on preliminary examination.....	11796
Witnesses may be taken on postponement of trial.....	9333

TETON COUNTY

Boundaries and county seat.....	4352
Change in boundaries of—See Counties	4362-4368

THANKSGIVING DAY

Holiday, when.....	10
School not to be held on.....	1062

THE MONTANA SOLDIER SETTLEMENT ACT

See Soldier Settlement Act...	5638-5652
-------------------------------	-----------

THE STATE OF MONTANA

See also State of Montana	
Style of process.....	19

THEATERS

Doors and exits, regulation of...	11266
Fire-escapes for—See Fire-escapes	
.....	2779-2785
License for, generally.....	2434
License for moving-picture houses	2439
Moving pictures of crimes forbidden	11567

THING IN ACTION

Assignment, effect of.....	9068
Defined ..	6804
Transfer by owner.....	6805

THIRD DEGREE

Use of methods by sheriffs forbidden	10923, 10924
--	--------------

THIRD PARTY CLAIMS

Attachment	9273
Claim and delivery.....	9234, 9238
To property levied upon on execution	9426

THIRD PERSONS

Defined in codes.....	16
In Civil Code includes what.....	8777

THISTLES—See Weeds

THREATENED OFFENSES

See Security to Keep Peace.11637-11652	
--	--

THREATS

See also Extortion.....	11389-11393
By letters, punishment for.....	11398
Crime, acting under.....	10729
Kidnaping under, consent no defense	10972
Obtaining signature by means of	11392
Of employers, relative to elections.	10770
To publish libel.....	10998
Unlawful, when referring to acts of third persons.....	11400
Verbal threats, punishment for..	11399
What constitutes extortion.....	11390
Written, sending of.....	11398

THREE-CENT FARE

On railroads established.....	6586
-------------------------------	------

THRESHERMAN'S LIEN

See Liens.....	8366-8374
----------------	-----------

THRASHING-MACHINES

Regulations for moving along highways	1749
to halt, when.....	1750

TICK-BEARING RODENTS

See also Gophers.....	4495-4500
Appeals to district court.....	2557
Appointment of agent to exterminate	2555
Compensation of agent.....	2557
Control of district.....	2553
County commissioners, proceedings before	2557
Definition of terms.....	2552
Expenses collected as tax.....	2557

GENERAL INDEX.

TICK-BEARING RODENTS (Continued)

Extinction of.....	2552
at land-owner's expense.....	2555
regulations for.....	2554
Grazing within control districts..	2560
Maximum charge against land...	2557
Notice to land-owner.....	2556
Penalty for violation of act.....	2561
Poison, preparation and sale of..	2558
Powers and duties of agent.....	2555
Quarantine of control districts...	2559
Records to be kept by agent.....	2556

TICKETS

See also Railroads.....	6564- 6575
Counterfeiting	11366
Larceny of.....	11378
Unlawful issuance of.....	11525

TIE VOTE

Procedure on—See Elections..	809- 812
------------------------------	----------

TIMBER

Burning inflammable materials...	2772
Burning, permit for.....	2773
Cutting of, trespass, damages	9476, 9477
Defacing marks upon.....	11210
Disposal of brush and slashings...	2771
Forest fire protection—See Fires	
.....	2763- 2770
Malicious trespass.....	11481
Of state, removal of.....	11336
Penalty for violation of act.....	2774
Permitting logs to accumulate	
along shore.....	11574-11576
Sale of, from state lands—See	
State Lands.....	1872- 1881
Setting fire to.....	11500, 11501
Spiking saw-logs.....	11505
Treble damages for injuries to...	8696
Trespass on state lands, punishment	11507

TIME

Allowed defendant to prepare for	
trial	11935
Codes take effect, when.....	10702
Computation of.....	4277, 10707
in negotiable instruments law..	8405
Definitions	
day	4281
daytime and night-time.....	4282
leap-year	4278
month	16
school day, year and week—See	
Schools, Public	
week	4280
year	16
year and its parts.....	4279
Enlargement of, for filing plead-	
ings	9187
Extension of, for filing papers,	
etc.	9823
For	
answer after demurrer, how com-	
puted	9192
answer to be allowed defendant	11890
commencement of civil actions	
—See Limitations, Statute of	
.....	9011- 9046

TIME (Continued)

Fractions of, how computed.....	16
How calculated in computing age	5674
How computed with reference to	
negotiable instrument.....	8405
Instruments deemed recorded,	
when	6899
Minority, how computed.....	5674
Of	
commission of offense, how	
stated	11848
enjoyment of property, how	
fixed	6700
essence of contract, when.....	7549
maturity of negotiable instru-	
ments, computation	8492, 8493
performance of contracts im-	
plied, when.....	7548
Priority of liens.....	8235
Reference to, in wills.....	7035
To	
amend, answer and reply begins	
to run, when.....	9192
file papers, limitation.....	9823
Unreasonable lapse in action for	
divorce	5763
presumption, how rebutted....	5764
When of the essence of contract..	7549

TIME OF COMMENCING AC-TIONS

See Limitations, Statute of

TIMOTHY

Pounds in bushel.....	4226
-----------------------	------

TITLE

Actions to quiet — See Quieting	
Title	9479- 9515
Declarations of predecessor in, as	
evidence	10510
Defective, proceedings to cure, in	
eminent domain.....	9948
May be tried in partition.....	9526
Not to be tried in justices' courts	9625
Original and ultimate title in the	
people, when.....	27
Property escheats, when.....	28

TITLE ABSTRACTERS

See Abstracters of Title.....	4139- 4146
-------------------------------	------------

TITLE INSURANCE COMPANIES

See Corporations.....	6136, 6345- 6354
-----------------------	------------------

TITLES

For all matters relating to form	
and operation of deeds—See	
Grants	
See also main title Property, sub-	
title real property	
Ownership of title deeds, in whom	
vested	6815
Subsequently-acquired, inures to	
mortgagee	8255
Subsequently-acquired, passes by	
operation of law.....	6867
To affidavits, defective.....	11873
special proceedings.....	12430

GENERAL INDEX.

TITLES (Continued)

- To personal property sold, passes,
when 6879
- seller acquires better than buyer,
when 6881
- transfer by executory agreement 6880

TITLES TO ACTIONS

- Procedure, when insufficient. 9818

TOBACCO

- Sale to minors forbidden. 11047

TOILET ARTICLES

- Excepted from prohibition act. . . 11050

TOLL

- For grinding grain, regulation of. 3915

TOMBSTONES

- Penalty for defacing. 11038

TON

- Full weight to be given. 11431
- Standard, defined. 4226

TOOLE COUNTY

- Boundaries and county seat. . . . 4353

TOOLS

- Burglarious, prohibited. 11353

TORNADO INSURANCE

- Regulation of — See Insurance
Corporations 6170- 6184

TORTS

- Actions, where triable. 9096

TOWN MARSHAL

- Must summon jury for justices'
and police courts. 8913

TOWNS

- See Cities and Towns
- Officers exempt from jury duty. . . 8893
- Summons, how served on. 9111

TOWNSHIPS

- Officers, exempt from jury duty.. 8893
- Officers of
enumerated 4726
- qualifications 4724
- Organization of new townships.. 4468

TOWNSITES

- Entry on public domain for cities
—See Cities and Towns. 5310- 5365
- Penalty for violation of law con-
cerning platting. 4994

TOY PISTOLS

- See Pistols. 11310-11313

TRACTION ENGINES

- See Engines and Machines. . . 4209- 4211

TRACTS

- Orchard and suburban tracts, pro-
cedure to plat. 4993

TRADE

- Contracts in restrain of, void. . . 7559
- partnership dissolution. 7561
- sales of good-will. 7560

TRADE COMMISSION FOR REGU- LATION OF PUBLIC MILLS

- Accountants and help, employ-
ment of. 3938
- Accounts to be rendered to. . . . 3926
- Attorney-general to prosecute. . .
. 3943, 3944
- Bags to be marked. 3930
- Basis of tolls for milling. 3918
- Complaints
disposal of. 3941
- hearing and notice. 3940
- institution of. 3939
- investigation of. 3939
- witnesses and fees. 3941
- Complaints by millers, institution
and hearing. 3942
- Corporation defined. 3921
- Creation of. 3914
- Depositions, how taken. 3929
- District court to enforce obedience
to process. 3937
- Documentary evidence
copies of, right to take. 3928
- defined. 3927
- production of. 3936
- Duties 3915
- Enforcement of law by. 3943
- Expenses, payment of. 3946
- Experts, employment of. 3938
- Hearing to enforce law. 3943
- Investigation of complaints. . . . 3939
- Judicial powers not given. 3922
- Millers accountable for grain. . . . 3930
- penalty for excessive tolls by. . . 3931
- Penalties and forfeiture, recov-
ery of. 3944
- Penalty for violation of act. 3945
- Powers of. 3915
- Privately-owned mills
defined. 3920
- excluded from act. 3919
- Production of evidence, how com-
pelled 3936
- Public mills
defined 3917
- regulation of. 3917
- Railroad commission ex officio. . . 3914
- Rates
filing with commission. 3933
- fixing on hearing. 3941
- Reasonable profit, right of mills
to charge. 3924
- Reasonably adequate service and
facilities to be furnished. 3923
- Right
of entry on premises. 3932
- to inquire into business manage-
ment 3935
- to test orders in court. 3922
- Rules and regulations for investi-
gations 3934
- Rules of procedure. 3922
- Schedule of rates and tolls, filing
of 3933
- Seal 3916
- Secretary 3916

GENERAL INDEX.

TRADE COMMISSION FOR REGULATION OF PUBLIC MILLS (Continued)

Service and facilities to be adequate	3923
Subpoena	3928
Tolls to be reasonable.....	3923
Traveling expenses.....	3946
Uniform accounts to be rendered.	3926
Valuation of plant by.....	3925
Witnesses	3928
depositions	3929
subpoenas	3928

TRADEMARKS

Bottles and siphons.....	4291
penalty for violation of act....	4292
Counterfeiting certain labels forbidden	11204
Definition of terms....	4286, 11201, 11202
Fee for recording.....	4288
Forgery or counterfeiting.....	11199
Of dealers in dairy products.....	2629
Owners defined	4289
Penalties for unlawful use.....	11206, 11208, 11209
Penalty for violation of act.....	4290
Record of.....	4288, 11206
Refilling vessels bearing, forbidden	11203
Right to appropriate to exclusive use	6812
Selling goods with counterfeit marks	11200
Suits to protect, injunctions.....	11207
Transfer of.....	4289
Use of, how secured.....	4287
Warranty on sale.....	7615

TRADING STAMPS

License for sale of—See License..	2430- 2433
-----------------------------------	------------

TRAFFIC REGULATIONS

See Highways.....	1742- 1754
-------------------	------------

TRAIN DISPATCHER

Intoxication forbidden.....	11253
-----------------------------	-------

TRAINMEN—See Railroads

TRAINING SCHOOL FOR FEEBLE-MINDED

See Feeble-minded, Training School for.....	1474- 1483
---	------------

TRAINS

See Railroads	
Robberies, moving pictures not to show	11567

TRANSCRIPT

Contents on appeal—See Appeals Of	
docket, in justices' court.....	9623
judgment, filing in another county	9413
justice court in sister state, as evidence	10571, 10572
minutes, when used on appeal..	12045

TRANSCRIPT (Continued)

On appeals to supreme court—See Appeals	
Return on certiorari.....	9839
Supplemental record, when authorized	9749
To be furnished free, when.....	8931
When cause transferred to district court from justices' court....	9625

TRANSFER AGENCIES

See Mines and Mining.....	6648- 6650
---------------------------	------------

TRANSFERS

For general title relating to transfers of real property, see Conveyances; of personal property, see Sales	
See also Fraudulent Conveyances.	11432-11435
See also Recording Conveyances	
Acknowledgment—See Acknowledgments	6905- 6919
Attorney in fact, how.....	6863
Creditor may avoid fraudulent acts, when.....	8605
Defined	6835
Estates in real property, how transferred	6859
Fraud, how determined.....	8606
Fraudulent, presumed, when....	8604
Fraudulent, when.....	8603
Grant	
date of delivery.....	6844
defined	6842
delivery	
absolute	6845
constructive	6848
in escrow.....	6846
necessary	6843
how interpreted.....	6849
Incidents transferred.....	6857
Mere possibility not transferable.	6838
Of	
action	
papers transmitted.....	9100
proceedings after judgment..	9101
administration	10120-10123
interest, not to abate action...	9086
obligations—See Obligations... ..	7413- 7423
property by owner ousted from possession	6840
property, tax on.....	10377-10400
property without writing valid, when	6841
records	
of new counties—See Counties	4408- 4426
when territory detached from county or city.....	4418
right of re-entry.....	6839
non-negotiable instrument by indorsement	7415
Recorded instrument, to whom notice	6934
Recording—See Recording Conveyances	6890- 6904
Trusts, how transferred.....	6877

GENERAL INDEX.

TRANSFERS (Continued)

Unlawful—See Unlawful Transfers	6939- 6944
Void unless recorded, when.....	6935
Voluntary transfer.....	6836
What may be transferred.....	6837
What title passes.....	6856

TRANSPORTATION

See also Railroad Commissioners, Board of	
See also Railroads	
Explosives—See Explosives..	2798- 2811
Free transportation by railroads, when permitted....	6572, 6573, 6575
Free transportation of game and fish department, when.....	3755
Of	
dead bodies, regulation of.....	2456
fish and game, when unlawful..	3744
intoxicating liquors—See Intoxicating Liquors.....	11048-11133
Property of companies, how assessed	2017
Sale of property received for, forbidden, when.....	11463
School children, regulation of....	1010

TRAPPING LICENSES

See Game and Fish.....	3681- 3707
------------------------	------------

TRAVELING EXPENSES

Allowance to state officers, how regulated	443
Assessor and deputies.....	2038
Attendance state officers at conventions, when prohibited...	443
Public officers, rules governing....	443, 457, 458

TREASON

Definition	10735
Evidence on trial for.....	11978
Jurisdiction when committed out of state.....	11714
How proved.....	10505, 10608
Misprision of	
defined	10736
punishment	10736
Petit, abolished.....	10958
Punishment	10735
Who capable of.....	10735

TREASURE COUNTY

Boundaries and county seat.....	4354
---------------------------------	------

TREASURER, CITY

See Cities and Towns.....	5034- 5036
---------------------------	------------

TREASURER, COUNTY

Accounts to be examined annually	4613
Bond, amount of.....	466
Bond of county clerk filed with..	508
Books and accounts	
examination by state examiner permitted, when.....	4771
open to inspection.....	4770
Charged with delinquent taxes, when	2180
Charges and mileage on tax sales of personal property.....	2243

TREASURER, COUNTY (Continued)

Collection of taxes in special improvement districts by.....	5251
Commissions forbidden, when....	4769
Coroner, disposal of property received from.....	4765
County attorney, duty to sue, when	4763
County bonds and interest to be paid by	4623
Custodian of funds drain districts	7280
Custodian of funds irrigation districts	3977
Delivery of records to successor..	4769
Deposit of public funds, how....	4767
security for.....	4767
Deputies	
number allowed.....	4880, 4882
salary	4873
Disposal of property received from coroner.....	4765
money may be demanded, when.	4766
Duties of, generally.....	4750
Duties with reference to state hail insurance—See Hail Insurance	350- 363
Duty concerning	
collection of licenses.....	2414, 2415
collection of road tax.....	1619, 1620
financial report.....	4750
inheritance tax—See Inheritance Tax	
Duty to	
collect assessments in rural improvement districts.....	4595
make monthly reports to secretary irrigation districts.....	7261
notify attorney-general unpaid inheritance taxes.....	10392
sue county attorney, when....	4763
sue county coroner, when.....	4764
Ex officio tax collector.....	4727
Examination of books, duty to permit	4771
Fees for tax deeds.....	4920
Financial report.....	4750
Fines collected by justice, payable to	12347
Forest reserve funds, division of.	177
Funds, bond for safe-keeping required	4767
Hail insurance tax, duty to collect	354
Liability for funds irrigation district	3980
May execute satisfaction of mortgages drought relief act....	8274
Member jury commission.....	8896
Money, when and where deposited	4767
Not liable for public funds, when.	4767
Not to pay warrants, when.....	449
Payment of fines and forfeiture to	12433
Penalty for failure to transmit reports to state examiner....	213
Receipts for money.....	4751
Records to be kept by.....	4624
Réports	
annual	4750

GENERAL INDEX.

TREASURER, COUNTY (Continued)

Reports (continued)	
as to inheritance tax collected.	10395
to county commissioners.....	4761
penalty for failure to make..	4762
Salary of.....	4867
Sale of unclaimed stolen property.	12244
School moneys, duties concerning.	
.....	1213, 4750
School report, duty to make.....	1214
Seizure and sale of property for licenses	2419
Settlement with clerk for licenses	2417
Settlements, monthly and annual.	4760
Suspension by county commissioners	4768
Suspension from office, when.....	4768
Tax collection, duties concerning.	4772
See also Taxation	
to collect city and town taxes, when	5214
To	
collect assessments in rural improvement districts	4595
file affidavits and statements of fees	4889
settle for taxes, when.....	2174
Warrants, deposit with county clerk, when.....	4760
duties concerning	4750
funds reserved sixty days.....	4758
how redeemed	4752
interest on	4753
lost bonds and warrants, duties concerning	4630
notice of redemption.....	4754
contents of	4755
priority in payment of.....	4756
registry in name of payee.....	4757
registry of	4753
to note interest paid.....	4759

TREASURER, STATE

Abstracter's license, duties concerning—See Abstracters of Title	4139- 4144
Access to offices for inspection....	186
Approves bond of warden of state prison	12460
Approves contracts for state supplies	264
Bond of	188, 464
chief clerk	464
clerk	464
deputy	464
filed with secretary of state....	469
Bonds purchased by state land board delivered to	1911
Books to be open to inspection....	184
Cement dealers' license tax, duties concerning	2374- 2377
Cement producers' license tax, duties concerning	2361
Contingent revolving accounts, authorization	195
Custodian of funds capitol building bond issue.....	5585

TREASURER, STATE (Continued)

Deposit of state moneys with....	192
official receipt	192
Depositories of state funds	
designation of	182
quarterly reports of.....	189
reserves to be kept by.....	182
Deputy, appointment and bond...	122
Duties	174
Duty to collect license tax freight-line companies	2106
Duty to notify attorney-general of unpaid inheritance taxes.....	10392
Forest reserve funds, duty to distribute—See Forest Reserve Funds	175- 178
Funds of state administered by for complete list of all state funds, see main title Funds	
Gasoline dealers' and distributors' license tax, duties concerning —See Taxation	2381- 2396
General fund defined.....	179
Income from dormitories, how used	196
Interest on state warrants....	180, 181
Liable for funds of building and loan associations	6372
License taxes—See subtitle taxation	
Member board of equalization....	174
Metalliferous mines' license tax, duties concerning—See Taxation	2344- 2355
Money from prison labor, disposal of	12450
Money, how paid out by.....	193
Payment of	
expenses of sale and lease of state lands	1918
interest on land-grant warrants	1917
interest on state warrants.....	180
warrants on illegal contracts forbidden	449
Penalty for violation of act.....	197
Permanent appropriation for university of Montana.....	194
Posting lists of warrants to be redeemed	183
Quarterly report to governor....	187
Registration of warrants.....	180
Registry of warrants of industrial school	12515
Reports by	174, 187
Revolving appropriations for university of Montana.....	194
Salary	436
Salary of employees.....	440
State board of equalization, duties as member of—See Taxation.	2122- 2146
Stenographer, appointment and salary	185
Suspension, temporary, by board of examiners	190
appointment of successor.....	191
expert examination of books...	191
report by governor to legislature	191

GENERAL INDEX.

TREASURER, STATE (Continued)

Taxation

corporation license tax, duties concerning—See Taxation.	2296- 2304
express companies' license tax, duties concerning—See Taxation	2311, 2312
freight-line companies' license tax, duties concerning...	2105- 2110
settlement with county officers for taxes—See Taxation.	2255- 2266
sleeping-car companies to pay license tax to.....	2314, 2315
Taxes to be paid over to.....	2255

To

collect tax on freight-line companies	2106
have access to state offices.....	186
maintain cash reserve in state depositories	182
post list of warrants.....	183
Transfer moneys in certain state funds authorized	198
Treasurer of state institutions....	192
Treasurer state board of education	833
Unexhausted appropriation necessary	193
trust funds excepted.....	193
Vacancy in office, how filled.....	516
Violation of duty, punishment...	11331
Warrants	
duties concerning	174
purchase of, against general fund, when	1912
registry and interest on.....	180
registry land-grant warrants excepted	181
Wrongful acts as to public money	11318

TREASURY CERTIFICATES

Issuance by state for 1921-1922—	
See Bonds	5615- 5623

TREATING

Candidates forbidden	10791
----------------------	-------

TREES

Cutting of, trespass, when.....	9476
Damages for injury to, measure of	8696
Damages to, within local fences or when boxed	3377
Injury in cities.....	11497
Injury upon public lands, punishment	11507
Line-trees, joint ownership.....	6775
Malicious injury to shade-trees...	1737
Orchard, regulation of—See Agriculture, Labor and Industry, Department of	3608- 3633
Removal, when fallen on highway	1735
Right of ownership in certain cases	6774

TRESPASS

Action for, forbidden unless boundaries lands in forest reserves marked	3382
Action for, time for commencement	9033

TRESPASS (Continued)

Cutting or injuring trees

actions for	9476
measure of damages.....	9477
Executors may sue for.....	10259
Hunting and building fires, when	11482
Injury to fences.....	11482
Liability of owners of stock....	3378
stock trespassing may be retained	3379
Limitation of action.....	9033
when accrues	9033
Livestock, when forbidden..	11225-11228
Malicious injury to real property.	11481
On	
public property, acts constituting exceptions	11335
state lands	11336
penalty	11507
timber land, penalty.....	1879
Procedure on taking up trespassing stock	8696
When use of force not unlawful..	3379
	10980

TRESTLES

Railroads to leave openings for stock	6554
---------------------------------------	------

TRIAL JURY

Defined	8886
Drawing and summoning—See Juries	8902- 8912
Formation in civil cases—See Juries	9334- 9348
Formation in criminal cases.....	11932
Motion for postponement, how made	9332
Number of	8887
Number of in justice court.....	8888

TRIALS IN CIVIL CASES

Agreed statements of facts.....	9372
By court	
decision to be in writing.....	9366
exceptions	
filing and service of.....	9371
to designate defects.....	9370
facts and conclusions separately stated	9367
findings of fact, how waived...	9368
jury, how waived.....	9365
procedure on judgment on issue of law	9373
reference, when ordered.....	9373
time for filing decisions.....	9366
trial on agreed statement of facts	9372
want of findings, judgment reversed for, when.....	9369
By jury	
issues must be tried by, when...	9327
procedure for drawing and challenging jury	9334- 9348
when and how waived.....	9365
By referees	
exceptions to findings, effect...	9385
findings, are those of court....	9384
number of referees.....	9376
oath of referee.....	9377

GENERAL INDEX.

TRIALS IN CIVIL CASES (Continued)

By referees (continued)	
order of reference.....	9374
parties may object.....	9381
powers of referees.....	9379
proceedings where there are several referees.....	9380
reference on motion.....	9375
report of findings.....	9383
witnesses.....	9378
Calendar, clerk must enter cause..	9330
Claim and delivery, verdict.....	9363
Contesting probate.....	10033
Counterclaim, how tried.....	9329
Decision in writing filed, when...	9366
Defective findings, exceptions.....	9370, 9371
Depositions, taken during postponement, read on.....	9333
Directed verdict.....	9364
Discharge of jury before verdict, effect.....	9356
Either party may bring issue to trial.....	9331
Exceptions—See Exceptions.....	9386-9394
Facts which may be proved at trial	10531
Findings of fact, conclusions of law.....	9367
Findings of fact, how waived....	9368
General and special verdicts, when may be rendered.....	9361
In	
action for dower.....	10161
disbarment proceedings.....	8971
justice courts — See Justice Courts.....	9671-9678
time of trial and postponement.....	9666-9670
probate proceedings.....	10368, 10369
proceedings on escheats.....	9961
proceedings with reference to dependent and neglected children.....	10466-10469
Instructions to jury, how and when given.....	9349
Interpreter, when and how used..	10538
Issues—See Issues	
Judgment—See Judgment	
Juries	
admonition on separation.....	9351
deliberation of.....	9353
further instructions.....	9354
may take papers.....	9352
power of court in absence of...	9357
sealed verdict.....	9357
verdict, how declared.....	9358
view of premises.....	9350
New trials	
See New Trials.....	9395-9402
Of	
actions by judge pro tem., when	8822
challenges.....	9345
charges against executors and administrators.....	10126
question of fact by court, decision, how and when given....	9366
On petition to become sole trader	9986
Order of.....	9349

TRIALS IN CIVIL CASES (Continued)

Polling of jury.....	9358
Postponement	
absence of evidence, motion....	9332
for failure of commissioner to take testimony to make return	10649
testimony of witness may be taken during.....	9333
Proceedings	
after determination of issue of law.....	9373
when juror becomes ill.....	9355
Referees.....	9373
Reserved cases brought up for argument, when.....	9404
Separate trials, when directed....	9328
Verdict	
general and special, defined....	9360
how declared.....	9358
in actions for recovery of money.....	9362
Waiver of	
findings.....	9368
jury.....	9365
Want of findings, effect.....	9369

TRIALS IN CRIMINAL CASES

See also New Trial	
Abortion, seduction, etc., evidence	11984
Affidavit for postponement.....	11936
After change of venue.....	11924
All witnesses need not be called, when.....	11981
Amendment of information or indictment.....	11870, 11871
Argument, order of.....	11969
Bigamy, evidence.....	11982
Burden of proof shifts when, in murder trials.....	11980
By jury, how waived in justices' courts.....	12313
removal from office.....	11697
Calendar of criminal actions.....	11933
Cases to be set for, when.....	11940
Challenge to jury	
district court.....	11949, 11964-11967
justices' courts.....	12317
Codefendant, separate trials, when	11973
Conspiracy, evidence.....	11979
Conviction on testimony of accomplice, when had.....	11988
Conviction or acquittal, when bar to subsequent prosecution....	11581, 12002
Corporate existence, how proved..	11985
Counsel may comment upon what.	11969
Court	
may adjourn while jury absent.	12016
for what purposes open.....	12016
may advise acquittal, when....	11995
may appoint prosecutor, when..	12007
to charge jury, when.....	11969
to decide questions of law.....	12001
De novo, on appeal to district court	12339
Defendant	
may be committed when appearing.....	12006

GENERAL INDEX.

TRIALS IN CRIMINAL CASES

(Continued)

Defendant (continued)	
may be discharged to become witness	11974, 11975
presumed innocent	11971
Defendant's presence, when necessary	11931
Directed verdict, court may advise	11995
Discharge of defendant for lack of evidence	11975
effect of discharge	11976
Discharge of defendant, jurisdiction wanting	11991
defendant, lack of jurisdiction, procedure	11992, 11993
jury, jurisdiction	11990, 11991
one defendant to testify for co-defendant, when	11975
one defendant to turn state's evidence	11974
Effect of failure to apply for postponement	11939
Errors in instructions to be excepted to	11969
Evidence, rules applicable	11977-11979
Exceptions not necessary, when	12041
False protenses, evidence	11987
Forgery of bank bills, evidence	11983
Forms of verdict	12020
Homicide, state need not call all witnesses	11981
Illness of juror	
In justice and police courts—See Justice and Police Courts	12319-12347
Instructions	
settlement of	11969
to jury, how prepared and given	11969
when to be read	11969
Issue of fact	
arises, when	11928
how tried	11928
Judges, information against, how tried	11930
Jury sworn as witness, when	11997
Juror to declare knowledge to court	11997
Jurors, separation during trial, how regulated	11998
Jury	
how admonished on adjournment	11999
how formed	11932
may decide in court or retire for deliberation	12005
trial, how waived	11929, 12313
Knowledge of juror to be declared in court	11997
Larceny of money, etc., proof of property taken	12008
Libel, jury to decide law and facts	12003
Lotteries, evidence	11986
Mistake in indictment or information, procedure on	11989
Murder, burden of proof, mitigating circumstances	11980

TRIALS IN CRIMINAL CASES

(Continued)

Murder cases, all witnesses need not be called	11981
New trials—See New Trials	12046-12050
Notice and affidavit for postponement	11936
Oath of bailiff in charge of jury	11998
Of challenges, how had	11949
Of persons arrested for misdemeanor, how had	11770
On change of venue	11924
Order of	11969
may be changed	11970
Postponement	
affidavit of defendant	11936
effect of failure to apply in time for cause	11939
state may have, when	11937
state may have, when	11938
Presence of defendant, when necessary	11931
Presumption of innocence	11971
Procedure on failure of county attorney to attend court	12007
Proceedings on discharge of jury when facts do not constitute offense	11994
Proof of corporate existence, etc	11985
Public trial, right to	11611
Question of insanity, procedure	12215
Questions of law, court to decide	12001
Reasonable doubt, acquittal	11971
Reasonable doubt as to degree of offense, result of	11972
Rebutting testimony, when offered	11969
Regulation, how conducted	11969
Rules of evidence applicable	11977
Seduction, evidence required	1198a
Separate trials, when ordered	11973
Separation of jury	11998
Sickness of juror, procedure on	12000
Speedy, right of defendant	11611
State may have postponement, when	11938
Time allowed defendant for preparation	11935
Treason, evidence	11978
View of premises by jury	11996
Witnesses, all need not be called	11981

TROOPS

See also Militia	
When ordered out to quell riots—See Riots	11660-11667

TROUT

Varieties of, game fish	3681
-----------------------------------	------

TRUANTS AND TRUANT OFFICERS

See Schools, Public	963, 1137- 1140
-------------------------------	-----------------

TRUE BILL

How found by grand jury	11833
Procedure when not found	11834

TRUST COMPANIES

See Banks and Banking	6014- 6109
---------------------------------	------------

GENERAL INDEX.

TRUST DEEDS

By corporation, recording of.....	8273
Recording of	7907

TRUSTEES

See also Trusts	
Assessment of property for taxation	2012
Bonds of, payable to state.....	504
Conversion by, is larceny.....	11382
Costs, in actions by or against...	9795
On dissolution of corporation by quo warranto	9595
powers of	9596
School trustees—See Schools, Public	
State library, how constituted....	115
Surviving partner, trustee of property in decedent.....	10261
To wind up affairs of corporation, powers	9596
undertaking	9595
Trustees of express trust defined..	9067
Under will	
compensation	10353
control of court over.....	10352
settlement of accounts after distribution of estate.....	10352-10354

TRUSTS

See Restraint of Trade.....	10901-10915
Classification of.....	7878
Commingle trust property, liability for.....	7896
Cotrustees, liability for each other	7899
Declarations of, where recorded..	7907
effect of records.....	7907
Definition of trustor, trustee and beneficiary	7881
Estate of trustee ceases, when....	6797
For what purposes created.....	7883
Fraud, trust resulting from.....	7887
In relation to real property—See Property	6783-6797
Injunctions against formation of, unauthorized	9254
Interest in existing trusts, how transferred	6877
Involuntary	
defined	7880
trustee defined.....	7886
trustees who are...7886, 7887,	7900
trusts, from what result.....	7887
Jurisdiction after distribution of estate—See Probate Proceedings	10352-10354
Parties to the contract defined....	7881
Payment of trust deposits by banks	6066
Presumption against trustees....	7895
Purposes for which may be created	7883
Real property, trusts in relation to—See Property.....	6783-6797
Recording of trust agreements, etc., constructive notice.....	7907

TRUSTS (Continued)

Sale, how regulated.....	6878
Sale of real property by trustees, when void.....	6796
Third person must see to application of property, when.....	7901
Transfers must be in writing....	6877
Trustee guilty of fraud, when....	7894
Trustees	
influence, how used.....	7891
liability for breach of trust	7897, 7898
limitations on use of property not to assume adverse trusts...	7889
not to assume trust adverse to interest	7892
obligation to good faith.....	7888
to disclose interests.....	7893
transactions forbidden to.....	7890
who are.....	7882
Trusts for benefit of third person	
compensation of trustees.....	7918
cotrustees, all must act.....	7915
creation of trust, how.....	7903
declaration of acceptance....	7906
of trust.....	7905
degree of care required.....	7909
discharge of trustee, how.....	7923
discretionary powers, how exercised	7916
district court may remove trustee, when.....	7924
to appoint trustee, when....	7927
duty as to appointment of successor	7910
extinguishment of trusts, how..	7920
indemnification of trustees....	7917
investment of money by trustees	7911
involuntary trustees, rights of	7919
liability of trustees, for interest, when	7912
not revocable.....	7921
purchase of claims by trustee forbidden, when.....	7913
recording of trust agreements, constructive notice.....	7907
scope of chapter.....	7902
survivorship between cotrustees	7926
trustees appointed by court....	7904
powers as agent.....	7914
to fulfill purposes of trust....	7908
vacancies filled by court, when	7925
vacation of trustee's office, how	7922
who are trustees.....	7902
Voluntary, defined	7879
Voluntary, how created as to trustor	7884
as to trustee.....	7885
What constitutes a trustee.....	7882

TUBERCULIN

Regulation of sale and distribution	3296-3298
Test of dairy cattle	
by state veterinarian.....	2583
regulations for.....	3268

GENERAL INDEX.

TUBERCULOSIS SANITARIUM,		
STATE		
Admission of patients to.....	1520	
Admission of soldiers, sailors and marines	1520	
Appropriation for.....	1522	
Buildings and improvements.....	1515	
Certificate of physicians as to tu- berculosis or miner's consump- tion	1520	
Control and supervision by state board of examiners.....	1524	
Donations, to whom made.....	1525	
Establishment and objects.....	1511	
Executive board		
appointment and oath.....	1512	
compensation and term.....	1512	
powers and duties.....	1513	
quorum	1512	
removal	1512	
Free patients		
bill for treatment of.....	1522	
collection from local authorities	1522	
list to be furnished.....	1522	
Medical assistants and examining physicians	1519	
Miner's consumption, persons hav- ing, to be admitted.....	1520	
President		
appointment and qualifications	1516	
duties of.....	1517	
Private patients		
admission of.....	1521	
charges to.....	1523	
Secretary, appointment and bond.	1518	
Site	1514	
State board of examiners, control over	1524	
Support of free patients, bills to be paid by county or city authorities	1522	
Transportation and treatment, ex- pense of	1520	
TUNNEL COMPANIES		
Articles of incorporation, contents	5906	
TURNIPS		
Pounds in bushel.....	4226	
TURTLE DOVE		
Killing prohibited.	3700	
TWIN BUTTES PRESERVE		
Creation of	3769	
TYPE		
Size of, in state reports.....	281	
UMPIRE		
Assayers	3439, 3440	
UMPIRES		
See Referees	10853-10858	
UNACKNOWLEDGED INSTRU- MENTS		
How proved—See Instruments...	6920- 6933	
UNBORN CHILDREN		
Status of	5675	
UNDERSHERIFF		
Appointments and duties....	4775, 4776	
UNDERTAKERS		
Burial permits	2526, 2528, 2529	
penalty for burial without....	2538	
License by state board of health.	2456	
Rules for transportation of bodies	2456	
UNDERTAKINGS		
Actions on, furnished by execu- tors, etc.	10262	
Appeal by complainant for secur- ity to keep the peace.....	11651	
Bail		
form of	12149	
of fugitive from other state....	12422	
on holding to answer before in- formation	12141	
on recommitment	12173	
qualifications of sureties.....	12142, 12150, 12153	
By railroad to build fences, etc., in eminent domain.....	9949	
Claim and delivery.....	9223	
on retaking property.....	9229	
third-party claims	9234	
Corporations as sureties.....	9826- 9828	
Cost of, in probate proceedings...	10106	
Default entered, when.....	12161	
Defective, when appeal to district court not to be dismissed....	9761	
Deposit in lieu of.....	9831	
in justices' courts.....	9718	
Extension of time in which to file	9823	
For costs in actions by nonresi- dents	9807	
Forfeiture, action on.....	12164	
Form of affidavit to accompany..	9825	
In actions against boats.....	9613	
Justification of sureties.....	9827	
Liability on, action not barred by what	12163	
Malicious prosecution in justice's court, costs.....	12330	
New bonds of guardians.....	10458	
Not required from state or munici- pal corporations	9829	
Of		
agents appointed to take charge of estates for nonresidents...	10347, 10350	
executors, etc., form of.....	10088	
guardians, action on.....	10459, 10464	
of minors	10408	
of nonresidents	10446	
on sale of ward's property...	10439	
justices of the peace.....	8839	
purchaser of contract to buy land, from estates.....	10239	
receivers	9304, 9305	
in proceedings supplementary	9464	
special administrators	10110	
testamentary guardians	10419	

GENERAL INDEX.

UNDERTAKINGS (Continued)

Of (continued)	
trustees on dissolution of corporations	9595
witness, forfeiture	12185

On	
abatement proceedings by county attorney	11131
appeal from justices' courts	9756, 9757
may be in one or several instruments	9740
to supreme court	9733, 9734
when insufficiency not cause for dismissal of appeal	9747
appeal to district court in criminal cases	12336-12338
appeal to supreme court	
from judgment for delivery of documents	9736
from money judgment	9735
arrest, in justices' courts	9653
by plaintiff	9196
sureties, justification	9197
attachment	9259
in justices' courts	9660
increase of	9285, 9286
release of partnership property	9290
suit on	9279
bail	
in civil action	9202
in contempt proceedings on	9919
of one arrested for contempt	9914
commencing quo warranto	9580
continuance of justices' courts	9670
injunction	9246
when not required	9255
partial distribution of estates	10318-10321
release of attachment, justification of sureties	9281
release of defendant, in justices' courts	9669
stay, in appeal to supreme court	9735-9740
suspension of sentence for neglect of children	10473-10476
Requisites	9825
State need not give, when	9829
Sureties on appeal substituted to rights of judgment creditor	9830
Surety bonds of corporations, when admissible	9826
Surety company may execute	6207
To	
avoid levy of attachment, in justices' courts	9661
continue attachment on appeal to supreme court	9739
keep the peace	
evidence of breach	11649
extension	11642
filing, where	11645
when and how prosecuted	11648
when broken	11647
when required	11642
Witnesses to appear in district court, when	11791, 11792

UNDUE INFLUENCE

Avoids contract	7475
Effect upon wills	6976
Grounds for rescission of contract	7565
Resulting trust from	7887
What constitutes	7483

UNIFORM

Wearing without authority	11558
-------------------------------------	-------

UNIFORM LAND CLASSIFICATION

See Taxation	2024-2031
------------------------	-----------

UNIFORM WAREHOUSE RECEIPTS ACT

Act, how cited	4138
Action defined	4136
Adverse claims, procedure on	4094-4096
Alteration of receipt, effect of	4091
Attachment forbidden unless receipt surrendered	4103
Commingling, when permitted	4101
Creditors' remedies	4104
Definitions	4136
Delivery	
defined	4136
of goods on demand	
to whom delivered	4087
when	4086
of goods, when excused	4094
Duplicate receipts, warranty on	4093
Fungible goods defined	4136
Good faith defined	4136
Goods	
adverse claims	
not a defense, when	4097
procedure on	4095
attachment or levy when in warehouseman's possession	4103
defined	4136
delivery by warehouseman, when excused	4094
delivery when receipt is lost or destroyed	4092
interchangeable goods, when commingled	4101
liability	
for commingling	4102
for want of care of	4099
of warehouseman for non-existence of goods	4098
notice to pay charges and remit, when	4112
perishable goods	4112
redemption by warehouseman	
on adverse claims	4096
remedies of creditors	4104
to keep separately, when	4100
warehouseman's lien	4105
how lost	4107
when negotiable receipt is issued	4108
Holder defined	4136
Interpretation of act	4135
Laws applicable to act	4134
Liability of warehouseman for conversion	4088

GENERAL INDEX.

UNIFORM WAREHOUSE RECEIPTS ACT (Continued)

Lien of warehouseman	4105
advertisement and sale	4111
enforcement of	4106
how lost	4107
legal remedies available	4110
liability after sale of goods	4114
notice to pay charges and remove goods	4112
refusal of delivery until satisfied	4109
remedy not exclusive	4113
satisfaction of, procedure to enforce	4111
when negotiable receipt is issued	4108
Mortgagee and pledgee, warranties by	4124
Negotiation of receipts—See subtitle warehouse receipts	
Order defined	4136
Owner defined	4136
Penalty for violation of act	4131-4133
Person defined	4136
Purchase and purchaser defined	4136
Receipt defined	4136
Receipts—See subtitle warehouse receipts	
Sale of goods to satisfy lien	4111, 4112
Scope of act	4137
Title of act	4138
Value defined	4136
Warehouse entitled to changes and advances	4111
Warehouse receipts	
act not applicable, when	4137
alteration of, effect	4081
by whom issued	4079
court to order delivery when lost or destroyed, bond and costs	4092
delivery of goods on surrender of	4103
duplicate negotiable receipts	4084
duplicate receipts, warranty	4093
endorsement, enforcement by transferee	4121
endorser not liable for what	4123
insertion of other conditions	4081
liability	
for conversion	4088
for failure to take up	4089
of warehouseman for damages, when	4084
when portion of goods delivered	4090
alteration of, when not excuse for	4091
mortgagee and pledgee, warranties by	4124
negotiable receipt defined	4083
negotiation	
by endorsement	4116
how effected	4115
impairment of validity	4125
not affected by what	4126

UNIFORM WAREHOUSE RECEIPTS ACT (Continued)

Warehouse receipts (continued)	
non-negotiable receipts	
defined	4083
how marked	4084
penalty for not marking	4084
notice to warehouseman	4120
penalty for	
delivery without obtaining negotiable receipt	4132
fraudulent issuance	4129
issuance when goods not delivered	4128
issuing when warehouseman is owner of goods	4131
negotiating receipts when title defective	4133
wrongful issuance of duplicate	4130
rights of	
purchaser for value	4127
seller's lien and stoppage in transit, effect of	4127
transferee when receipt negotiated	4119
when not negotiated	4120
terms of	4080
liable for omission of terms	4080
transfer of non-negotiable receipts	4117
warranty on negotiation or transfer	4122
who may issue	4079
who may negotiate	4118
Warehouseman	
defined	4136
lien of—See subtitle lien of warehouseman	
when liable for conversion	4088

UNINCORPORATED BANKS

See Banks and Banking 6095- 6107

UNION LABEL

See Trademarks 11204-11208
On state printing 260
penalty for violation of act 261

UNIONS—See Labor Organizations

UNITED STATES

Acquisition of lands by, in state	24
Acts of, as excusing performance	7452
Appropriation of water by	7099
Authority over military reservations	21
Authority over other places	25
Defined in code	16
Distribution of oil royalties and bonuses from	1211
Flag—See Flag	317- 319
acts constituting desecration	11561-11563
Includes what	10713
Injury of surveyors' monuments	11490
Power to take ditches by eminent domain	7134
Prisoners	
expenses of	12452

GENERAL INDEX.

UNITED STATES (Continued)

Prisoners (continued)	
liability of sheriff	12473
to be kept	12472
Sale of lands to, by state.....	1849, 1852
Sedition defined	10737
Service of process on lands of...	
.....	21, 24, 25
Term may include district and territories	16
Territorial jurisdiction	20- 25
Wearing of uniform without authority	11558

UNITED STATES COURTS—See Federal Courts

UNITED STATES SENATOR

Election of—See Elections....	824, 825
-------------------------------	----------

UNKNOWN PARTIES

How served with summons in partition suits.....	9524
In	
action for partition, rights of, determined	9527
actions to quiet title.....	9480
partition suits, to be protected.	9551
Order in partition suit.....	9531
Proceedings in justices' courts...	9723
Proceeds belonging to, in partition invested, how	9559, 9560, 9562

UNIVERSITY OF MONTANA

Appointment of chancellor and faculty	853
Appropriation for support.....	868
Component institutions	852
Control of	853
Diplomas and degrees	854
signing of	856
Duties of state board of education	855
Institutions may take by will or gift	6978
who may make gift, etc.....	6979
Local executive board for component institutions	857
Powers and duties of presidents of component institutions....	858
Public accountants, powers concerning—See Public Accountants	3241- 3251
Refunding fares to students....	860
Seal of	856
Use of name forbidden.....	859

UNIVERSITY, STATE

Appropriation for support of....	868
Biological station	
construction of	871
establishment of	870
Bonds for support of institutions comprising—See Bonds..	5606- 5612
Contingent revolving accounts, authorization	195
Course of study	864
Departments	863
Endowment of professorships....	867
Establishment and purpose.....	861

UNIVERSITY, STATE (Continued)

Forestry school	
creation of	875
official name of	876
powers of board of education over	877
Income from dormitories, how used	196
Law school, establishment at....	872
control by state board of education	874
official name.....	873
Military instruction.....	865
Open to students of both sexes...	865
Permanent appropriation for....	194
President, powers and duties....	862
Revolving appropriation accounts.	194
Selection of site.....	869
Tax-levy for support of institutions comprising.....	2148
Tuition charges.....	866

UNLAWFUL ASSEMBLY

Defined	10743, 11288
Magistrate neglecting to disperse.	11291
Punishment	10743, 11289
Remaining after order to disperse	11290
To teach sabotage, etc., punishment for	10743, 10744

UNLAWFUL CONTRACTS

See Contracts	7553- 7562
---------------------	------------

UNLAWFUL DETAINER

See Forcible Entry and Detainer..	9887- 9906
-----------------------------------	------------

UNLAWFUL TRANSFERS

Other provisions	6944
Power to revoke, when deemed executed	6941, 6942
Purchaser in good faith not affected	6943
Transfers of real property, when void	6939
not void against purchaser with notice, when	6940

UNMARRIED PERSONS

Exemptions	9427
------------------	------

UNMARRIED WOMEN

As executrices, effect of marriage	10059, 10073
May sue for seduction.....	9073

UNSOOUND MIND

Persons of—See Persons,....	5676- 5685
-----------------------------	------------

UNWRITTEN LAW

Defined	10549
---------------	-------

USAGE

Defined in codes.....	16
Evidence of, may be given.....	10531
Local, governs mining actions....	9499
What constitutes	8778

USES

In relation to real property—See Property	6783- 6792
See also Trusts	

GENERAL INDEX.

USUAL

- Defined 16
- Denotes what 8779

USURPATION

- Of public office, penalty 10831

USURY

- By pawnbrokers, penalty 11186
- Penalty for 7727

UTILITIES, PUBLIC

- See Public Service Commission 3879- 3913

VACANCIES

- Absence from state causes 511
- Appointees must give bonds 493
- Conviction of felony causes 511
- County commissioners, how filled 4454
- County commissioners may fill, when 4465
- County superintendent, how filled 954
- District judges, how filled, extent of term 8820
- During recess of legislature, how filled 515
- In
 - board of county commissioners, how filled 4454
 - certain state offices, how filled 516
 - duration of term of appointees rights and duties of appointees 517
 - county offices, how filled 4734
 - term of appointees 4734
 - legislature, how filled 513
 - nomination of candidates, how filled 647
 - offices of cities and towns, how filled 5013, 5015
 - state offices, how filled if not otherwise specified 514
- Juries, how filled 9347
- Justices of the peace
 - delivery of docket and papers 9707
 - how filled 8838
 - successor of previous justice 9709, 9710
- Not to affect court proceedings 8879
- Oath or bond, failure to file causes 511
- Occur, how 511
- On impeachment, how filled 11684
- On jury, how filled 9347
- Pending appeal from removal from office 11700
- Presidential electors, how filled 817
- Resignation and vacancies of public officers 510- 517
- School trustees, how filled 998
- State board of health, how filled 2445
- Supreme court, how filled 8798
- Trustees county high school 1268
- United States senators, how filled 825

VACATIONS

- Highways, how 1614
- Townsites, streets and parks 5306- 5309

VACCINATION

- When compulsory 2481

VAGRANCY

- Annual report of institutions 12552
- Commitment of females to reformatory institutions, when 12549
- Compensation of institutions 12551
- Defined 11521
- Qualifications of institutions 12550

VAGRANTS

- Defined 11521

VALIDATION

- Of certain
 - articles of incorporation 5910- 5912
 - county bonds and warrants 4634- 4639
 - early conveyances 6930- 6933
 - improvement districts 5258
 - judicial sales of real property 9453
 - recorded instruments 4798
 - sales by county commissioners 4466
- Of county refunding bonds 4618
- Of early notarial acts 399, 401

VALLEY COUNTY

- Boundaries and county seat 4355

VALUABLES

- Liability, declaration of value 7870
- of carrier 7870

VALUATION

- Bonds of life insurance companies 6265
- how valued 6265
- commissioner of insurance to determine method 6265

VALUE

- Defined in taxation law 1996
- How estimated in favor of seller 8699
- in favor of buyer 8700
- Jury to find in verdict, when 12026
- Of peculiar property, how estimated 8701
- Of things in action, how estimated 8702

VALUED POLICY

- Defined 8117

VARIANCE

- Acquittal, defendant not discharged 12034
- Acquittal, on ground of, not good as plea 11912
- Amendments 11870, 11871
- Immaterial variance
 - amendment 9184
 - duty of court 9183
- In order of trial, when allowed 11970
- In pleadings, when immaterial 11874
- Not guilty, form of verdict 12020
- What not to be deemed 9185
- When deemed material 9183
- court may order amendment, when 9183
- When disregarded in justice courts 9651

GENERAL INDEX.

VENDOR'S LIEN

Extent of	8380
Waiver by transfer of contract...	8379
When exists	8378

VENEREAL DISEASES

Advertisements of cures prohibited	11144, 11145
penalties	11146, 11147
production of advertisement as evidence	11148
Detention of suspects.....	2566
Diseases dangerous to health defined	2564
Druggists not to prescribe for....	2573
Examination by health boards....	2566
Federal aid, disbursement of....	2563
Health officers to co-operate.....	2566
Instruction of patients.....	2571
Isolation hospitals	2567
Payment by patients.....	2568
Penalty for violation of act.....	2577
Physicians, duty to report diseases	2572
Physicians not to issue certificate, when	2574
Prisoners, examination and treatment	2569
Quarantine of infected persons....	2566, 2570
Record and report.....	2565
Records not open to public.....	2575
State and federal authorities to co-operate to control.....	2562
State board of health, rules and regulations	2576

VENTILATION

Of coal mines.....	3501
Of quartz mines.....	3432

VENUE

See Change of Venue.11916-11927, 12307	
See Jurisdiction	
In	
district court—See Actions, sub-	
title venue	9093- 9104
justice courts—See Justice	
Courts	9619- 9625
change of, contents of affi-	
davit	9621
effect of filing affidavit.....	9621
Of actions for kidnaping.....	10971

VERBAL—See Oral

VERDICT IN CIVIL CASES

Against joint debtors in justices' courts	9767
By two-thirds of jury.....	9353
Correction of	9359
Direction of, by judge.....	9364
Exceptions to	9387
Foreman to render.....	9358
General and special	
defined	9360
when rendered	9361
How declared	9358

VERDICT IN CIVIL CASES (Con-

tinued)	
In	
actions for recovery of money..	9362
claim and delivery.....	9363
contest of probate of will.....	10034
forcible entry and detainer....	9901
Informal, procedure on.....	9359
Of jury	9360- 9364
On counterclaims	9362
Part of judgment-roll.....	9409
Polling jury	9358
Prevented, new trial.....	9356
Quieting title.....	9490
Recovery	
of money	9362
of specific personal property...	9363
Referee's findings, special verdict	9385
Sealed, when ordered.....	9357
Special	
findings control general verdict.	9361
issues not to be submitted, when	9361
verdict must present what.....	9360
To find value of property, when..	9363
Vacation of, for what causes....	9397
When	
deemed excepted to.....	9387
informal, proceedings	9359

VERDICT IN CRIMINAL CASES

Acquittal, discharge of defendant	12034
on account of insanity, proceed-	
ure	12036
variance, defendant detained...	12034
After amendment of information	
or indictment, effect.....	11872
Assessment of punishment, court	
may reduce	12031
error, duty of court.....	12029, 12030
Attempts, jury may convict of...	12024
By lot, new trial.....	12048
Calling names of jurors.....	12017
Codefendants, finding of jury....	12025
Contrary to law or evidence, new	
trial	12048
Conviction	
defendant remanded	12035
exoneration of bail.....	12035
had only upon.....	11614
Court may reduce, when.....	12031
Court to declare punishment, when	12028
Defendant must appear in person	
to receive, when.....	12018
Defendant to be discharged, when	12034
Degree of crime, jury must find..	12022
Directed in criminal cases, when..	11995
Effect after amendment at trial..	11872
Failure to find value, effect.....	12026
Felony, presence of defendant....	12018
Finding of lesser offense or at-	
tempt	12024
Forms of	12020-12023
General, jury may find.....	12020
In justice and police courts—See	
Justice and Police Courts....	12322-12325
Insanity, acquittal on ground of..	12036

GENERAL INDEX.

VERDICT IN CRIMINAL CASES

(Continued)	
Insufficiency, procedure	12021
Juror not dissenting, guilty of con- tempt, when	12033
Jury	
may convict of lesser offense..	12024
of attempt	12024
may declare punishment.....	12027
may find upon charge of previ- ous conviction	12023
to find degree of crime.....	12022
Justices' courts	
codefendants	12323
entry in minutes.....	12322
how delivered	12322
to be general.....	12322
Lesser offense or attempt.....	12024
Manner of receiving.....	12019
May be rendered as to some of defendants	12025
Number of jurors necessary to re- turn	11929
On	
charge of previous conviction..	12023
inquest, essentials	12385
question of insanity, procedure.	12216
Polling of jury.....	12032
contempt.....	12033
Procedure	
upon conviction	12035
when all jurors do not appear..	12017
when insufficient	12021
Proceedings on acquittal on grounds of insanity.....	12036
Reduction of, by court, when.....	12031
Rendered as to some defendants; new trial as to others.....	12025
Return of jury on agreement.....	12017
Value of property taken.....	12026

VERIFICATION

Accusation against attorney.....	8965
Affidavit may be used for.....	10636
Application for voluntary dissolu- tion of corporation.....	9924
Of	
complaint, in injunction pro- ceedings	9244
pleadings	
contents of affidavit.....	9163
in forcible entry and detainer	9902
in justices' courts not neces- sary, when.....	9638
When necessary.....	9163

VESSELS

See also Boats.....	9602- 9618
See also Navigation.....	3859- 3878
Defined	10713
Fictitious bills of lading, punish- ment for issuance.....	11459
Good faith in issuance, when de- fense	11461
How assessed	2017
Jurisdiction of offenses.....	11709

VESSELS (Continued)

Meaning of term.....	16
Setting adrift, punishment.....	11488
Unauthorized sale of property by, when	11463

VETERANS' WELFARE COMMIS- SION

Appropriation	5668
Board of examiners to borrow money for veterans' welfare fund	5655
to issue bonds for.....	5656
Creation of	5660
Direction as to expenditure of fund	5667
Disbursement of money by.....	5661
Duty of officers to aid.....	5663
Faith of state pledged.....	5657
Record and audit of expenditures	5664
Sale of unsold bonds for welfare fund authorized	5666
Veterans' welfare fund	
creation and disbursement of...	5659
purpose to aid soldiers.....	5658
tax-levy to pay interest and bonds	5665
What appropriation to be returned to general fund.....	5662

VETERINARY MEDICAL EXAM- INERS

See Veterinary Medicine....	3217- 3228
-----------------------------	------------

VETERINARY MEDICINE

Definition of	3225
Farrier defined	3222
Farrier's license	3221
Interpretation of act.....	3227
License	
application for	3220
credit of other state license...	3224
display of	3224
examination for	3220
issuance	3223
procedure to obtain.....	3220
reciprocity with other boards..	3224
registration and revocation...	3223
Opium, permits for use.....	3189
Penalty for practicing without license	3228
Practicing defined	3225
Prosecutions	3228
Revocation of certificates, when..	3226
Scope of act.....	3227
Veterinary medical examiners	
appointment, term and qualifica- tions	3217
expenses	3219
funds	3219
licenses, application for, fees and examination	3220
organization, quorum and meet- ings	3218
powers and duties.....	3218
secretary, salary and duties....	3219

GENERAL INDEX.

VETERINARY SURGEON, STATE

See Livestock	3262- 3295
Bond of	464
Disobeying orders of, punishment	11535
Duty to inspect stock on removal from county, when.....	3326
Obstructing or failing to report to Powers and duties, where pre- scribed	231
Salaries of employees.....	440
Tuberculin test of dairies by.....	2583

VICE-PRINCIPALS

Mines, mills and smelters, liability for negligence of.....	7761
Railroads, liability for negligence of	7760

VIEW OF PREMISES

By jury, when.....	9350, 11996
--------------------	-------------

VINEGAR

Excepted from prohibition act...	11050
----------------------------------	-------

VITAL STATISTICS, BUREAU OF

Birth certificates, by whom made.	2530
Burial permits	2526, 2531
duty of sexton.....	2519
Copies of returns, transmission of fee for.....	2519
Creation	2515
Death certificates	2528
Deaths, undertaker to notify reg- istrar of	2529
Fees for filing birth certificates...	2534
Form of certificates.....	2527
Hospital to report patients to...	2536
Local registrars	
compensation of	2537
duties of	2533
justices of peace may act.....	2517
who are	2517
Penalties for violation of act.....	2538
Prosecutions	2539
Records	
certified copies of.....	2524
fees for	2524
Registers to be kept by county clerk	2523
Registrars to	
enforce act	2539
file returns, when.....	2518
make rules for.....	2516
Registration of physicians, mid- wives and undertakers.....	2535
Registry of births.....	2520, 2525
Registry of deaths.....	2521, 2522
Sexton, duty of.....	2531
State registrar, duties of.....	2532

VOCATIONAL EDUCATION

See Schools, Public.....	1311- 1317
--------------------------	------------

VOCATIONAL REHABILITATION

Acceptance act of congress.....	3044
Appropriation	3051
Assistants	3049
Duty to co-operate with federal board	3049

VOCATIONAL REHABILITATION

(Continued)

Gifts, authority of board to re- ceive	3050
report of	3050
Persons disabled include whom..	3048
State board	
authority to receive gifts.....	3050
designation of	3046
duties	3049
State treasurer custodian of funds	3045

VOCATIONAL SCHOOL FOR GIRLS

Admission of females to reforma- tory institutions, when.....	12547
Age of person eligible to admis- sion	12520
who may be committed.....	12521
Commitment	
expenses, how defrayed.....	12537
of females for certain offenses.	12549
of girls to, procedure.....	12535
parole, when granted.....	12539
term of	12539
to industrial school, when changed to other institutions	12548
warrant of judge.....	12537
Commutation of punishment to commitment to school, when.	12540
Construction of buildings, how regulated	12527
Curriculum	12533
Employment of principal.....	12525
Establishment and location.....	12519
Executive board	
annual report	12530
compensation of members.....	12528
composition and powers.....	12522
duty to procure land for site...	12524
employment of principal.....	12525
leases of state land to.....	12526
meetings	12524, 12528
oath and bond of members.....	12523
officers	12524
other duties	12524
permanent office	12528
powers	12534
term of office of ex officio and other members	12531
vacancies, how filled.....	12530
Fugitives, return of.....	12542
Health certificate, on commitment, form of	12536
Leases of state land to board...	12526
Order of commitment.....	12536
Paroles, when granted.....	12539
Penalty for connivance at escapes for furnishing tools for escapes	12543
Powers of judges concerning com- mitments	12538
review of proceedings.....	12538
Presiding officer, duties.....	12521
Principal	
duties	12529
employment of	12525

GENERAL INDEX.

VOCATIONAL SCHOOL FOR

GIRLS (Continued)	
Principal (continued)	
reports	12529
salary	12532
to report cost of care of girls..	12537
Punishment for aiding escapes...	12543
Purposes	12520
Release and discharge; when.....	12541
Reward for apprehension of escape	
of persons	12545
Salaries of principal and other	
officers	12532
Term of commitment.....	12539
Transfer of inmates from indus-	
trial school	12546
Warrant, contents of.....	12537
Who may be committed.....	12521

VOLSTEAD ACT

State law conforming to—See In-	
toxicating Liquors.....	11048-11086

VOLUNTARY MANSLAUGHTER

Defined	10959
---------------	-------

VOLUNTARY TRUSTEES—See

Trusts

VOTERS

See Elections	
Qualifications on elections for bond	
issues	1253

VOTING

Fraudulent, penalty for.....	10749-10751
------------------------------	-------------

VOTING MACHINES

See Elections	757- 773
---------------------	----------

VOUCHERS

See Probate Proceedings...	10297, 10298
For traveling expenses.....	458
Presentation of false, by officers..	10828

WAGE-BROKERS

Assignments contrary to act void.	4182
Assignments invalid without no-	
tice to employer.....	4179
filing with county clerk.....	4179
to be considered a loan.....	4180
wife to join in.....	4178
Bond of	4173
County commissioners or cities to	
license, when	4174
Definition of	4175
Interest on loans, regulation of..	4177
License and bond.....	4173
License, terms and amount, how	
fixed	4174
Notes void, when.....	4182
Penalty for violation of act.....	4181
Restrictions upon assignments of	
wages and salary.....	4176

WAGERS

See also Racing Bets	
See also Gambling	
Election wagers forbidden...	10767, 10794

WAGES

Attorney's fee allowed in actions	
to recover, when.....	9800
Contracts in violation of act void	3088
Discharged employees, when pay-	
able	3086
Discounting by employer forbidden	11403
Judgment	
debtor, when exempt.....	9429
for, to include attorneys' fees.	3089
Liens for—See Liens.....	8351- 8358
Minors, to whom paid.....	5849
Payment	
discharged employee, penalty..	3086
in cash or check.....	3084
Preference in assignments for ben-	
efit of creditors.....	8616
Priority	
on death of employer.....	8353
on execution or attachment....	8354
proceedings if claim disputed..	8356
mortgages not affected.....	8358
original action not to be dis-	
missed	8357
service of notice.....	8355
Semi-monthly payment of.....	3084
agricultural labor excepted....	3084
penalty for failure to pay.....	3085
Time for recovery of.....	3087
Women to receive equal pay for	
equal service.....	3090

WAIVER

Of

certain provisions of Civil Code,	
when	8597
defects in information.....	11892
demand of performance of	
pledge	8310
findings	9368
jurisdiction in justices' courts..	9680
jury in forcible entry.....	9898
jury trial	9365
in district courts.....	11929
in justices' courts.....	9676, 12313
notice of	
dishonor	8516
sale of pledge.....	8309
objections to	
complaint	9136
name of defendant in justices'	
courts	12309
performance	7447
preliminary examination when,	
procedure on	11797
presentment for payment of bills	
of exchange.....	8489
protest	8518
summons	
in district court.....	9106
in justices' courts.....	9628
undertaking on appeal.....	9733
What objections to information	
not deemed waived.....	11906

GENERAL INDEX.

WALL-PAPER

- In tenement and apartment-houses
- health boards to enforce act.... 2501
- penalties for violation of act... 2502
- regulation of 2499
- removal in case of contagious diseases 2500

WANT OF PROSECUTION

- Dismissal for, when.....9317-12223

WAR

- Dissolves partnership, when..... 8009
- Effect on statute of limitations.. 9053
- Removal of court for..... 8854

WAR DEFENSE BONDS

- See Bonds.5624- 5637

WAR DEFENSE FUND

- Authority to invest in state general fund warrants..... 270

WARD

- See Guardian and Ward.....5868- 5889
- See also Guardianship

WARDEN OF STATE PRISON

- See State Prison.....12438-12465

WARDS

- In cities and towns..... 5002

WAREHOUSE

- Location on right-of-way of railroads—See Railroads....6638- 6644
- State purchasing agent may maintain 286
- Storage intoxicating liquors, when permitted 11082

WAREHOUSEMEN

- See Uniform Warehouse Receipts Act4079- 4138
- Duplicate receipts to be marked.. 11462
- Fictitious receipts
- good faith in issuance, when defense 11461
- punishment for issuance..... 11460
- License to railroad companies to act as 2435
- Penalty for
- discrimination by 3585
- unlawful issuance warehouse receipts for grain..... 3587
- Pooling by, forbidden.....10912, 10913
- Sale of unclaimed property for storage—See Deposit.....7667- 7671
- Unauthorized sale of property by, when 11463

WAREHOUSES, PUBLIC

- Control by department of agriculture—See Agriculture, Labor and Industry, Department of3573- 3592

WARRANT

- See also Arrests
- Arrest
- by telegraph11767, 11768
- by whom executed.....11735-11737

WARRANT (Continued)

- Arrest (continued)
- contents 11734
- coroner's, how served..... 12393
- defendant on bail, failure to appear11878-11882
- delay in taking defendant before magistrate 11744
- directed to whom..... 11736
- duty of officer arresting..... 11747
- duty of officer in conveying prisoner 11749
- execution in any county...11737, 11738
- felony, defendant taken before what magistrate 11739
- finding of indictment..... 11839
- force to be used..... 11760
- form of 11733
- coroner's 12392
- in justices' and police courts.. 12303
- fugitives from other states..... 12419
- in other county, magistrate who issued warrant to act, when.. 11743
- indorsement of bail on..... 12146
- instead of writ of habeas corpus12372-12379
- misdemeanor
- admission to bail..... 11748
- in other county, bail....11740-11742
- when at night-time..... 11757
- name of defendant to be specified 11734
- on indictment, indorsement of bail 11840
- peace officer may make without, when11305, 11753
- peace officer must execute..... 11735
- powers of officers..... 11750
- procedure where defendant taken before other magistrate..... 11745
- procedure where defendant triable in other county..... 11746
- showing of warrant..... 11759
- to whom directed..... 11735
- when coroner to issue..... 12388, 12390, 12391
- with, duty of officer..... 11765
- without, duty of officer..... 11766
- without, procedure 11731
- Bench-warrant—See Bench-warrant12060-12062
- Commitment, failure to give security to keep peace, contents 11643
- Defect in form, not cause for release on habeas corpus..... 12363
- Defective when complainant not entitled to release on habeas corpus 12364
- For disobedience to subpoena.....10626, 10627
- For fugitives from justice..... 12419
- Form of, when issued from justices' or police courts..... 12303
- Form of, when issued on arraignment of defendant..... 11880
- directions contained in..... 11881
- how served 11882

GENERAL INDEX.

WARRANT (Continued)

Issuance instead of habeas corpus, when	12372
Magistrate to issue, when.....	11730
Malicious procuring of.....	10948
Officer must exhibit.....	11759
Search-warrants—See Search-war- rants	12394-12414
To issue on indictment, when....	11839

WARRANT OF ARREST—See War-
rant, immediately preceding

WARRANTS

Authority board of examiners to invest special state funds in general fund warrants.....	270
County warrants—For law gov- erning, see Treasurer, County.	4750- 4772
and Counties, subtitle finance..	4612- 4639
For payment of costs of criminal actions on removal before trial	4954
Land-grant warrants, interest, how paid	1917
Of cities and towns—See Cities and Towns	5081- 5083
Of school districts—See Schools, Public, subtitle finance	447
Public officers dealing in, prohib- ited	447
State treasurer to purchase gen- eral fund, when.....	1912
State warrants—For law govern- ing, see Auditor, State....	154- 159
and Treasurer, State.....	174- 191
Treasurer not to pay illegal.....	449

WARRANTY

See also Guaranty	
See also Insurance.....	8121- 8137
Agent's authority to make.....	7954
Agent's warranty of authority....	7967
Breach of	
buyer may rescind.....	7624
warranty of authority, measure of damages	8684
Buyer relying on statement of seller	7610
Damages for breach of—See Dam- ages	8678- 8684
Defined	7606
Effect of general warranty.....	7621
General, in covenants to sell real estate	7589
Lineal and collateral, abolished...	6876
Manufacturers' warrant, what....	7612
Not implied, when.....	7607
Of	
negotiable instrument by trans- fer	8472
other marks	7616
provisions for domestic use....	7618
thing bought for particular pur- pose	7613
title to personal property.....	7608
trademarks	7615

WARRANTY (Continued)

On	
exchange of money.....	7635
judicial sale	7620
sale by sample.....	7609
sale of good will.....	7619
sale of merchandise not in ex- istence	7611
sale of written instrument.....	7617
Rescission by buyer on breach...	7624
When buyer cannot examine....	7614

WASHINGTON'S BIRTHDAY

Holiday	10
School not to be dismissed on....	1062

WASTE

Action	
by tenant in common against cotenant	9091
for	
time for commencement.....	9033
when	9475
Court may restrain during period of redemption	9447
Damages for, on execution sales..	9497
Executors may maintain action for	10259
Limitation of actions.....	9033
when accrues	9033
Of mortgaged property forbidden	8254
On premises assigned as dower, prohibited	5827

WATER

See also next title	
Defiling of	11235
Depositing slack in.....	11276, 11277
False devices for measure of....	11387
Injuring pipes.....	11499
Larceny of.....	11386
Overflowing ditches or flumes....	11531
Poisoning	11194
Taking from or obstructing canals	11467

WATER AND WATER RIGHTS

Abandonment of use, effect of..	7094
Action may settle numerous rights	7105
Action to determine right to use between partnership, tenants in common or corporations...	7152
appointment of commissioner after final decree.....	7158
appointment of commissioner to distribute, pending action....	7153
authority of commissioner.....	7155
compensation of commissioner appointed on application of owners	7159
compensation of commissioners, allowance and payment....	7156
diversion of water.....	7154
interference with commissioners a contempt.....	7157
oath of commission.....	7154
taxation of costs against owners	7159
Actions concerning joint water rights, court to hear.....	7105

GENERAL INDEX.

WATER AND WATER RIGHTS

(Continued)

Adjudication of rights, effect of decree	7128
Appropriation	
authorized	7093
by Carey land act board	1986
by state	1829, 1965
by United States, procedure and effect	7099
filing notice with county clerk	7100
impounding seepage and waste-water	7093
must be for useful purposes	7094
notice, contents of	7100
where filed	7100
pending litigation subject to decree	7131
subject to prior decree	7129
nonadjudicated streams not affected	7130
verification of notice	7100
Appropriation from adjudicated sources	
appearance, how made	7121
certified copy of decree to be filed	7127
court may prescribe conditions for work	7124
decree	7121
default of defendant, when entered	7121
entry of final decree	7124
how made	7119
penalty for violation of act	7125
petition, contents and filing	7119
prior rights not affected	7122
procedure on trial of case	7121
summons to issue	7120
survey by engineer	7119
waters, how taken from one stream to another	7123
discretion of court	7123
measuring devices	7123
Appropriation of water for use out of state forbidden	7135
legislative act, when authorized	7135
Appropriator to prosecute work, time limit	7101
effect of failure	7102
Change of name of water courses, procedure for—See Change of Names	9968, 9971
Change of point of diversion	7095
Control of water rights by state—See Irrigation Commission	3947-3952
Cubic foot legal standard	7107
equivalent in miner's inches	7132
Damages for wrongful diversion	7105
Dams and reservoirs, right to construct	7110
Dams and reservoirs to be securely constructed	7117
use of insecure, forbidden	7118

WATER AND WATER RIGHTS

(Continued)

Decree of adjudication, effect of	7128
Diligence in prosecuting work to completion	7101
Drainage districts—See Drainage Districts	7265-7364
Dumping refuse from saw-mills forbidden	3718
Effect of decree	7133
Existing decrees not affected	7109
Failure to comply with laws, effect of	7102
First in time, first in right	7098
Flood waters, impounding of	7093
For	
control of irrigation districts by public service commission, see Irrigation Districts	3953-4025
irrigation and drainage ditches, see Civil Code	
laws governing appropriations, see Civil Code	
state control of, see Irrigation Commission, Montana	3947-3952
Highways to be protected	7111
penalty for violation of act	7112
Index of declaration of water rights	4799
Irrigation districts—See Irrigation Districts	7166-7263
Measurement of water	7107
Miner's inch, equivalent in gallons	7108
Mingling with other waters	7096
Navigable waters public way	1604
Notice of appropriation, contents and filing	7100
Overflowing public highway	1732
Point of diversion, change of	7095
Pollution of, forbidden	2484, 2649
Priority as between appropriators	7098
Public water supply, regulation of	2641-2657
Purchase by lessee state lands	1897
Reclamation of, other waters not to be diminished	7096
Record of declaration by certain persons	7103
record prima facie evidence	7104
Record of declaration notice	7106
Regulation of, under Carey land act	1983
Reservoirs, impounding and appropriation of water authorized	7093
Return of surplus water to stream	7097
Right of relation back	7102
Right to construct dams and raise water	7110
procedure when crossing railroads	7110
Seepage water, impounding of	7093
State land agent to appropriate, when	1829
Statutory measurements	7132

GENERAL INDEX.

WATER AND WATER RIGHTS

(Continued)	
Surplus water, sale by owner....	7113
duty of purchaser to dig ditches	7114
enforcement of right to surplus	7115
purchaser cannot sell.....	7116
Turning into channel of another	
stream	7096
United States, appropriations by	7099
may take ditches by eminent	
domain	7134
Use of insecure reservoirs forbid-	
den	7118
Users to maintain headgates, when	7151
Waste-waters, impounding of....	7093
Water commissioners	
application for appointment....	7136
appointment and authorization	7137
chief commissioner, appointment	7137
complaint by dissatisfied users,	
procedure	7150
effect of order fixing fees.....	7149
expenses	
apportionment of	7147
for labor, allowance.....	7145
for telephone, allowance....	7146
objections to	7148
power to incur and assess....	7140
retaxation and adjustment...	7148
failure to perform duty, con-	
tempt of court.....	7142
headgates, duty of user to main-	
tain	7151
maintenance and repair of	
ditches	7141
oath and bond.....	7138
order admeasuring water.....	7140
power of commissioners concern-	
ing arrests	7143
powers	7136
powers in admeasuring water..	7140
record of daily distribution of	
water	7144
removal of commissioners, when	7150
Water may be turned into natural	
channels, limitations.....	7096
demand for return.....	7097
Water users' associations—See	
Water Users' Associations...	7160-7165
Waterworks in cities and towns,	
regulation of	5039
What waters may be appropriated	7093

WATER COMMISSIONERS

See Water and Water Rights.	7136-7150
-----------------------------	-----------

WATER FOWL

Open season for.....	3703
----------------------	------

WATER USERS' ASSOCIATIONS

Assessments to be equitable.....	7161
Books and records to be furnished	
by county commissioners....	4467
charges for recording.....	4467
Division of project into districts	7164
election of directors.....	7164
vacancies in board of directors	7165

WATER USERS' ASSOCIATIONS

(Continued)	
Exempt from	
fees for filing articles.....	147
taxation	147
Power to levy annual assessment.	7160
Shares of stock	
assessments	7163
how transferred	7162

WATERSHEDS

Protection of public water supply	2650
-----------------------------------	------

WATERWORKS

Protection of—See Public Water	
Supply	2641-2657

WAYS

Private, injury to.....	11464
-------------------------	-------

WEAPONS

Concealed	
carrying within cities and towns	11302
carrying without cities and	
towns forbidden.....	11303
defined.....	11307
district judge may issue per-	
mits, procedure.....	11306
exceptions from act.....	11304
jurisdiction of courts.....	11309
person may be arrested without	
warrant	11305
unincorporated towns defined..	11308
Deadly	
carrying with intent to assault	11354
Exhibiting, forbidden, when....	11299
Taking from person arrested....	11763

WEARING APPAREL

Exempt from execution.....	9427
----------------------------	------

WEARING DISGUISE

Prohibited	11571
------------------	-------

WEEDS

Certain plants common nuisance..	4506
Disposal of fines.....	4513
Expense eradication, how paid..	4511
Expense eradication, how taxed to	
owner	4511
Officers to enforce laws.....	4512
On highways forbidden.....	4507
Penalty for violation of act.....	4513
Procedure when weeds mingled	
with crop.....	4512
Weed commissioner	
notice to owner on complaint..	4509
service of notice.....	4510
petition for.....	4508

WEEK

Defined	4280
---------------	------

WEIGHTS AND MEASURES

Acre	4216
Apothecary's weights.....	4249

GENERAL INDEX.

WEIGHTS AND MEASURES (Continued)

Apple-boxes and packing—See Apples	4265-4272
Avoirdupois weight.....	4218
Barrel	4220
Bread—See Bread.....	4273-4276
Bushel, weight of different commodities	4226
Chain	4215
Coal, full weight to be given.....	2336
Coal mine inspector, sealer of....	3454
Contracts construed.....	4225
County sealer to inspect and approve	4233
False	
defined	11428
for measuring gas, electricity, etc.	11387
penalties for.....	4234
For sale of food, size of.....	2582
Full weight by ton or pound.....	11431
Gallon, size of, for sale of food....	2582
Half bushel, unit of measurement	4221, 4222
Hay in stack, measurement of....	4228
Hay, standard grades for....	4229-4232
Heap measure	
division of capacity.....	4223
how made.....	4224
Hogshead	4220
Hundredweight	4218
Increasing weight of articles sold in packages.....	11240
Inspection of—See subtitle state and county sealers	
Liquid measure, unit of.....	4219
Mile	4215
Milk bottles, contents to be indicated	4255
Milk containers, regulation of....	4254
Penalty for	
disregarding standard weights..	4227
exaction	4227
false weights.....	4234
selling less quantity than represented	4258
short weights and measures....	4245, 4246
using false weights and measures	4256
Pole and perch, yards in.....	4215
Pound, divisions of.....	4218
Pound, weight of, for sale of food	2582
Public scales	
capacity of.....	4472
establishment of.....	4471
Public weigher	
appointment of.....	4473
duties of.....	4474
duty to have scales adjusted....	4241
penalty for false weights and receipts by.....	4476
rules and regulations.....	4475
Regulation by cities and towns....	5039
Rod	4215
Secretary of state ex officio sealer of	112

WEIGHTS AND MEASURES (Continued)

Short weights and measures, penalty and damages.....	4246
Solid measure, unit of.....	4221
Stamping false, punishment.....	11430
Standard grades of hay—See Hay	4229-4232
Standard ton and bushel defined..	4226
Standards for dairy products....	3571
Standards, what are.....	4212
State and county sealers	
appointment	4235
apothecary's weights to be tested	4249
arrests, power to make.....	4263
bills and expenses, payment of.	4237
certificate of inspection.....	4239
condemnation of weights and measures	4251
correction of standards.....	4236
county auditors are inspectors.	4236
denomination and weights to be marked	4249
duties as to inspection.....	4236
duty to have scales adjusted....	4241
ex officio deputy sheriffs.....	4263
fines, disposal of.....	4264
inspection	
and certificate.....	4242
by	4238
of	
computing devices.....	4243
hay and other scales.....	4242
measuring devices.....	4243
track scales.....	4245
weights by county sealers..	4233
penalty for short weights...	4245
prosecutions, when.....	4244
weight of commodities.....	4244
legal weights to be stamped..	4257
penalty for	
false certificates.....	4248
refusal to permit examination using scales not certified....	4240
violation of act.....	4262
powers	4236
prohibition against using weights pending adjustment.	4250
promulgation of rules.....	4261
records of inspection.....	4247
scales of itinerant vendors to be adjusted.....	4253
penalty for violation.....	4253
secretary of state ex officio sealer	4235
seizure of weights as evidence..	4252
supervision of standards.....	4236
tolerances, establishment of...	4259
weights not to be used pending adjustment	4250
Time—See Time.....	4277-4282
Ton, weight of standard.....	4226
Unit of	
extension	4213
liquid measure	4219
weight	4217
Using false, punishment.....	11429

GENERAL INDEX.

WEIGHTS AND MEASURES (Continued)

Weights to be indicated on container, when.....	4246
penalty for selling short.....	4246
Yard	
divisions of.....	4214
unit of extension.....	4213

WELLS

See Oil and Gas.....	3547- 3554
Poisoning prohibited.....	11194

WHARVES

See Docks and Wharves.....	1605- 1609
Establishment by county commissioners—See Counties.....	4477- 4481

WHEAT

Pounds in bushel.....	4226
Tolls for milling fixed by trade commission ..	3918

WHEATLAND COUNTY

Boundaries and county seat.....	4356
---------------------------------	------

WHISKY—See Intoxicating Liquors

WHISTLE

Railroads to provide and sound..	6521
----------------------------------	------

WHITE FISH

Game fish.....	3681
----------------	------

WHITE SLAVERY

See Prostitution.....	11008-11016
-----------------------	-------------

WIBAUX COUNTY

Boundaries and county seat.....	4357
---------------------------------	------

WIDOW

See also Dower.....	5813- 5828
Assignment of dower out of estates—See Probate Proceedings ..	10158-10169
Right to one-half estate, when....	5821
Right to support out of estate—	
See Probate Proceedings	10144-10150

WIDTH

Public and private highways.....	1615
----------------------------------	------

WIFE

See Divorce.....	5734- 5731
See Husband and Wife.....	5782- 5812
See Married Women	
Abandonment and failure to support—See Wife and Children ..	11020-11022
Absent, need not sign deed, when	5818
Dower ..	5813- 5828
Duty to support husband, when..	5802
Homestead of—See Homestead..	6945- 6973
Not competent as witness in criminal case, when.....	12176
Parent and child.....	5830- 5867
Property rights of—See Husband and Wife.....	5782- 5812
Residence of.....	33

WIFE (Continued)

Right of action for injuries from sale of intoxicating liquor...	11065
Support of—See Husband and Wife ..	5782- 5812

WIFE AND CHILDREN

Abandonment and nonsupport	
certain proof prima facie evidence, when.....	11019
court may enter what orders...	11018
undertaking for support.....	11018
Cruelty to children.....	11022
Desertion or abandonment of children, penalty for.....	11020
court may suspend sentence, how and when.....	11020
Disposition of child for mendicant occupations ..	11021
Duty of husband to support, penalty ..	11017
Nonsupport, penalty for.....	11017

WILD ANIMALS

Bounties for killing—See Bounties ..	3407- 3417
--------------------------------------	------------

WILFUL DESERTION

See Divorce.....	5739- 5747
Cause for divorce.....	5736
Separation and intent.....	5742
Separation by consent, not.....	5741
What constitutes.....	5739
Who commits.....	5740

WILFUL NEGLECT

Defined ..	5747
Ground for divorce.....	5736

WILFULLY

Defined ..	10713
------------	-------

WILLS

For law relating to proof and contest of wills—See Probate Proceedings ..	10018-10067
Abatement, takes place, when...	7056
Action to establish, time for commencement ..	9030
Advancements, during lifetime, effect of.....	7011
when adempments.....	7050
After-born children, rights of succession ..	7008, 7038
from what part of estate paid..	7010
Ambiguous or doubtful provisions, how explained.....	7022
Annuities defined.....	7051
Annuities, when due.....	7062
Attested, how.....	6980
Authority to executor to appoint executor void.....	7066
Beneficiaries, liability for debts of testator ..	7070
Bequest of interest accrues, when	7060
By what law governed.....	7069
Capacity to make.....	6974
Certain words not necessary to pass fee..	7028

GENERAL INDEX.

WILLS (Continued)

Change of domicile, effect of.....	6989
Charities, restrictions on devises to	7015
Child born after death takes, when	7038
Children unprovided for.....	7009
Codicil, effect of.....	6990
Codicils revoked, when.....	7007
Competency of subscribing witnesses	6984
Condition precedent defined.....	7045
effect of.....	7046
when deemed performed.....	7047
Conditional devises defined.....	7044
Conditional wills, denial of probate, when.....	6985
Conditions subsequent defined....	7048
Construed according to testator's intent	7016
Contract of sale not a revocation	7003
Conversion takes effect, when....	7037
Conveyance a revocation, when... not a revocation, when.....	7006 7005
Conveyances by heirs, when good.	7058
Corporations cannot take by, when	6977
Creditors competent witnesses....	6986
Death of devisee, effect.....	7042
Debts, estate chargeable with payment of.....	7052
liability of beneficiaries for...	7070
order of.....	7053
Declarations of decedent inadmissible, when.....	7039
Defined	10713
Demonstrative legacy defined....	7051
Devise of lands, how construed....	7013
Devise or bequest to a class, scope of	7036
Devisees take as tenants in common, when.....	7049
Devises not affected, when.....	7021
Disposition vested cannot be divested	7041
Duress, effect of.....	6976
Effect of	
change of domicile.....	6989
divestment of all property....	7030
failure to prove within four years	7058
omission to provide for children or issue of deceased child....	7009
Effect upon gifts causa mortis... when treated as legacy.....	6888 6889
Estate, how chargeable with payment of debts.....	7052
Exceptions of wills prior to code.	7068
Execution of wills, how.....	6980
Executor	
not to act till qualified.....	7067
power to appoint executor void when appointed though not named	7066 7065
Foreign wills, effect on property in state.....	6988
Forgery	11355
Fraud, effect upon.....	6976
General legacy defined.....	7051

WILLS (Continued)

Gifts to subscribing witnesses void, when.....	6986
effect of.....	6987
Harmonizing parts.....	7020
Heirs, conveyance good unless will proved within four years....	7058
Heirs, relatives, issue, etc., how construed	7033
words of donation and limitation	7034
Holographic defined.....	6981
How revoked.....	10610
Includes codicil.....	16
Indexes of, by county clerk.....	4799
Intent of testator to be carried out	7016
Intent to be ascertained from....	7017
Interest, bequest of, accrues, when	7060
Interests in remainder not affected, when.....	7043
Intestacy to be avoided in interpretation	7025
Inventory of property, first legatee to give second.....	7059
Law governing.....	7069
Legacies—main subject treated.. ..	7051-7070
classes of.....	7051
demonstrative, when.....	7051
from what funds payable.....	7051
to kindred, when chargeable... when due	7055
abatment as to classes.....	7055
construction of rules.....	7064
interest on, when.....	7063
kinds of.....	7051
possession of, how obtained..	7057
Legatees for life, conditions of possession	7059
delivery of inventory.....	7059
Liability of beneficiaries for testator's obligations.....	7070
Lineal descendants take estate, when	7012
Marriage of man, effect upon....	7001
Marriage of woman, effect upon.	7002
Married woman, restrictions on making	6975
Mistakes and omissions, correction of	7039
Mortgage not a revocation.....	7004
Must be in writing, when.....	6980
Mutual will valid.....	6983
revocation of.....	6983
Nuncupative wills, how executed need not be in writing.....	6991 6980
probate of.....	6994
proof of.....	6993
requisites for.....	6992
Order of payment of debts.....	7053
of legacies.....	7054
Parts to be harmonized.....	7020
Possession of legacies, how obtained	7057
Power to devise, how executed..	7029
Prior wills not affected by act..	7068

GENERAL INDEX.

WILLS (Continued)

Production in evidence, when necessary	10609
Proof, in what county made.....	10018
Proof of will within four years after death of devisor.....	7058
Providing for payment of debts, estates, how appropriated....	10232
Real property deemed personal, when	7037
Receipt, first legatee to give to second	7059
Recording authorized.....	7907
record constructive notice.....	7907
Residence, witness to add.....	6982
Residuary clause, effect of...7031,	7032
Residuary legacies defined.....	7051
Restrictions on devises to charitable or benevolent corporations	7015
Revocation	
by marriage and issue.....	7000
by subsequent will.....	6998
does not revive antecedent will effect on codicils.....	7007
how evidenced.....	6996
of duplicate.....	6997
Rules of interpretation.....	7018
Sales to pay debts, order of.....	7053
Satisfaction of legacies or gifts in fear of death.....	7061
Several instruments to be taken together	7019
Share of after-born child, how paid	7010
advancements during lifetime effect	7011
Specific devises, possession, how obtained	7057
Specific legacies defined.....	7051
State institutions which may take by	6978
persons who may bequeath to..	6979
Subsequently-acquired estate passes by.....	7014
Successive legacies, first legatee to receipt to second.....	7059
Technical words, effect of.....	7026
not necessary.....	7027
Testator may dispose of real property by.....	10612
Time of vesting bequests.....	7040
To be in writing, when.....	10609
To what time words refer.....	7035
Undue influence, effect of.....	6976
Validity when made out of state	6988
Vested dispositions, when divested	7041
Vesting of devises, when.....	7040
Who may make.....	6974
Who may take by will.....	6977
Witness to add residence.....	6982
Witnesses	
as devisees, share, when.....	6987
attest, how.....	6980
competency of.....	6984
creditors competent as.....	6986
gifts to, void.....	6986
Words, construction of certain...	7033

WILLS (Continued)

Words taken in ordinary sense...	7023
of inheritance not necessary to pass fee.....	7028
referring to testator's death, how construed.....	7035
to receive operative construction	7024
Written will, how executed.....	6980
how revoked.....	6995

WINDOWS

Persons	
making arrest may break..11761,	11762
serving search-warrant may break	12402, 12403

WINE

See Intoxicating Liquors...11048-11133	
Use for sacramental purposes permitted	11049

WIRE FENCES

See Barbed Wire Fences

WITNESSES IN CIVIL MATTERS

Arrest, exoneration from, when..	10676-10679
Attendance before	
board of county commissioners	4517- 4520
courts-martial—See Militia	
legislature, subpoenas for...79-	83
railroad commission, fees and mileage	3800
state board of examiners.....	236
state fire marshal.....	2748
Attorney cannot be, when.....	10536
Capacity of.....10534-10536	
Certificate of attendance...4903,	4938
construction of section.....	4904
Change of venue to suit convenience of.....	9098
Character evidence, when permissible	10670
Children cannot be, when.....	10535
Clergyman cannot be, when....	10536
Clerk to report list of.....	4939
Commitment for disobedience to subpoena	10626-10628
Compelled to testify if in court.	10623
Competency when county is involved	4449
Concealed, service of subpoena... 10621	
Confidential relations prohibit testimony, when.....	10536
Conviction of felony may be shown	10668, 10674
Costs, on change of place of trial.	9103
Court to	
control examination of.....	10661
discharge from arrest.....	10679
Credibility, instructions.....	10672
Damages, for failure to testify..	10625
Definition	10533
Depositions—See Depositions....	
.....10643-10658	
Direct and cross-examination, defined	10662
Disbarment proceedings, fees and mileage in.....	8955

GENERAL INDEX.

WITNESSES IN CIVIL MATTERS

(Continued)

Disobedience to subpoena	
contempt	10624
forfeiture of damages for.....	10625
in justices' courts.....	9698
Duty to	
attend and remain when sub-	
poenaed	10673
report presence.....	4938
Examination of—See Examination	
.....	10659-10671
Exclusion from courtroom.....	8848, 10660
Experts in handwriting.....	10524
Fees	
and mileage of.....	4936
in courts not of record	
civil actions.....	4941
coroner's inquests.....	4942
criminal actions.....	4942
in courts of record.....	4936
of	
experts	4947
interpreters.....	4946
translator	4946
paid by party subpoenaing....	4943
paid in advance in civil ac-	
tions	4944
to be taxed as costs.....	4944
How released from arrest....	10677, 10678
Husband cannot testify, when....	10536
Immune from arrest, when.....	10676, 10677
Impeachment	10666, 10668, 10669
In proceedings supplementary to	
execution	9458
Interpreter may be sworn to tes-	
tify	10538
Judge and jury may be.....	10537
Leading questions defined.....	10663
Limitation of number of sub-	
poenas in criminal actions..	4945
May	
affirm or declare.....	10697
demand fees, when.....	10620
refresh memory, how.....	10664
Mileage of.....	4884
how computed.....	4901
Must	
answer questions, when.....	10674
attend when subpoena served..	10673
Oath of.....	10694-10697
One sufficient to prove fact.....	10505
Parties to action cannot be, when	10535
Party producing may impeach,	
when	10666
Perpetuation of testimony of, pro-	
cedure for.....	10686-10692
Persons present in court compelled	
to testify.....	10623
Physician cannot be, when.....	10536
Postponement of trial, testimony	
of, may be taken.....	9333
Power of court to compel attend-	
ance of.....	8844, 10619
Presumed to speak truth.....	10508
Presumption of truthfulness, how	
rebutted	10508
Priest cannot be, when.....	10536

WITNESSES IN CIVIL MATTERS

(Continued)

Prisoners, how produced....	10628-10630
Production when in prison.....	10628
how examined.....	10630
order on whose motion.....	10629
Protection from arrest, when....	10676
Public officer cannot be, when...	10536
Record of attendance to be kept.	4940
Re-examination, when permissible	10667
Refreshing memory of.....	10664
Right to protection on stand....	10675
Rules of evidence governing, pro-	
duction of testimony—See	
Evidence	10505-10671
Skilled persons may decipher char-	
acters	10524
State may require service.....	26
Subscribing, defined.....	10583
Subpoena, how issued and served.	
.....	10619, 10620
Tender of fees not necessary,	
when	4902
Testimony	
confined to personal knowledge.	10506
of, how taken.....	10507, 10631
To	
marriage ceremony.....	5722
report presence to clerk, when.	4938
wills	6980
competency	6984
Warrant to bring, when.....	10626
When	
compelled to attend court.....	10622
not compelled to attend court..	10622
not entitled to prepayment....	4519
Who	
capable of being.....	10534
incapable of being.....	10535
incompetent in actions against	
decedents	10535
Wife cannot be, when.....	10536

WITNESSES IN CRIMINAL MATTERS

See also Perjury	
All need not be called in murder	
cases	11981
Attendance outside of county...	12183
Bail, forfeiture, when.....	12185
Bribery of.....	10896, 10897
Bribery, offender as witness....	10863
Change of venue, effect of order..	11925
Codefendants as.....	12178
Committed on refusal to give se-	
curity, when.....	11794
Competency	
in actions for bribery.....	10863
of husband and wife as.....	12176
rules of civil practice applicable	12175
Contempt, disobedience to sub-	
poena	12184
Convicts competent.....	11603
Coroner's inquest.....	12383, 12384
Corrupt lobbying, not excused	
from testifying.....	10846
Deceiving of.....	10892

GENERAL INDEX.

WITNESSES IN CRIMINAL MAT- TERS (Continued)

Defendant	
against himself.....	11613
credibility of, as.....	12177
may be discharged to become..	
.....	11974, 11975
not compelled to testify.....	12177
not competent as, when.....	12177
witnesses for, when produced	
and sworn.....	11780
Depositions in state.....	12187-12198
application	
on affidavit.....	12189
to take.....	12188
authentication of testimony...	12195
before whom taken.....	12191
court to appoint attorney for	
defendant, when.....	12193
magistrate to take, when.....	12192
notice of application.....	12190
oath, by whom administered...	12198
order for taking.....	12191
persons imprisoned.....	12198
rights of defendant.....	12193
sealing and filing.....	12196
service of order.....	12191
subpoenas	12194
testimony reduced to writing..	12195
use as evidence.....	12197
when permissible.....	12188
witness in jail, how produced.	12198
Depositions out of state....	12199, 12212
application	
on affidavit.....	12202
to whom.....	12203
commission	
and return open to inspection	12211
defined	12201
how executed.....	12207
receiving and opening..	12208, 12209
duty of commissioner.....	12207
interrogatories	
amendments	12205
how settled and allowed.....	12205
notice of application.....	12203
order granted, stay of trial...	12204
return of commission	
by mail	12206, 12207
delivery to agent.....	12208, 12209
directions	12206
use as evidence.....	12212
when	
and how filed.....	12210
application made.....	12200
Discharge of defendant to become,	
when	11974, 11975
Disobedience to subpoena, liable	
damages	12184
Examination of	
conditionally, when and by	
whom	12187
for defendant.....	11780
on commission—See subtitle	
depositions out of state.	12199-12337
Examined in presence of defend-	
ant	11779

WITNESSES IN CRIMINAL MAT- TERS (Continued)

Exclusion of, by magistrate.....	11781
Expenses from without county,	
how defrayed.....	12182
Experts, forgery of bank bills...	11983
Extortion by employers or fore-	
men, immunity.....	11405
Failure to attend before legisla-	
tive assembly.....	10845
False testimony before legislature,	
perjury	10881, 10882
Forfeiture of undertaking on fail-	
ure of witness to appear....	12185
Homicide, state need not call all.	11981
Husband and wife, when incom-	
petent as.....	12176
Immunity	
in actions for extortion.....	11405
in gambling prosecutions.....	11178
on charge of perjury.....	10720
Imprisoned	
how produced in another county.	12432
removal	12186
separate room.....	12469
Indorsement on	
indictment	11836
information	11805
Juror	
as, on personal knowledge....	11997
may be, on challenge.....	11965
Justices' courts, continuance, ver-	
bal notice sufficient, when...	12315
No person compelled to be witness	
against himself.....	11613
Offering false evidence.....	10891
On	
examination before magistrate.	
.....	11778-11781
procedure to remove from office.	11698
Outside of county, expenses....	12182
Penalty for deceiving.....	10892
Perjury	
before legislature.....	10881, 10882
what admissible.....	10720
Poor persons, expenses, how paid.	12182
Preparation of false evidence....	10893
Preventing attendance of.....	10895
Prisoners, how produced as.....	12186
Privileges	
in actions	
against foremen for receiving	
gifts	11405
for violation of prohibition	
law	11076
in bribery actions.....	10863
on trial for fighting duel.....	10987
Receiving bribes.....	10897
Refusal to	
answer, criminal contempt....	10944
attend and testify before legis-	
lature	10845
be sworn, criminal contempt...	10944
give security to magistrate....	11794
Right of defendant	
to compel attendance of.....	11611
to meet	11611

GENERAL INDEX.

WITNESSES IN CRIMINAL MAT- TERS (Continued)

Security for appearance conditional examination, when not given.....	11795
of infants and married women.	11793
when and how given.....	11792
Subpoenas	
blank, when issued.....	12179
by whom signed and issued....	12179
defined	12179
disobedience to, how punished.	12184
for, by magistrate.....	11732
form of.....	12180
served, how and by whom....	12181
Temporary removal of imprisoned witness, when.....	12186
Testimony	
before grand jury, when dis- closed	11830
may be read against, when....	10720
of codefendants, how used....	12178
reduced to writing, when.....	11783
how signed and authenticated.	11783
Unable to give security, may be examined, when and how....	11795
Undertaking to appear in district court	11791, 11792
Who competent.....	12175-12178
in bribery actions.....	10863

WOLVES

See Bounties.....	3407- 3417
-------------------	------------

WOMEN

See Females	
See also Husband and Wife	
See also Married Women	
See also Vocational School for Girls	12519-12536
Abduction of, punishment for....	11004
Accepting money from earnings of prostitute	11015
Admission to reformatory institu- tions	12547
Age of minority.....	5673
Annual report of reformatory in- stitutions	12552
Commitment to reformatory insti- tutions for certain offenses, when	12549
Compensation of reformatory in- stitutions	12551
Disturbance in presence of.....	11297
Enticing to places of prostitution.	11143
Keeping	
disorderly houses.....	11140, 11141
for immoral purposes forbidden.	11008
or residing in house of ill-fame.	11140
Living with common prostitute..	11016
Paying money for procuring for immoral purposes.....	11012
Procedure on execution of judg- ment in case of pregnancy....	12099-12101
Procuring	
for concubinage or other im- moral purpose.....	11010

WOMEN (Continued)

Procuring (continued)	
to reside in house of prostitu- tion	11009
Qualifications of reformatory in- stitutions	12550
Receiving money for	
immoral acts of.....	11013
procuring for immoral purposes.	11013
Submitting to attempts to produce abortion	11024
Transportation for immoral pur- poses a felony.....	11008
Unlawful restraint of, in immoral places	11014
Vagrancy	11521

WOOD DUCK

Killing forbidden.....	3700
------------------------	------

WOOD-PILES

Burning or injuring, punishment.	11488
----------------------------------	-------

WORDS

Certain words defined.....	16
include what.....	16
Construction of.....	15
How understood in contract..	7535, 7536
against whom interpreted.....	7545
Meaning in Civil Code.....	8776

WORDS AND PHRASES

For other special definitions, see	
Negotiable Instruments Law,	
Statutes and Wills	
Absence or separation.....	5742
Acceptance of offer.....	7492
Acceptance, qualified.....	7493
Accord	7456
Adultery	5737
Adults	5673
Advancements	7084
Agency	7928
Agency, actual.....	7932
ostensible	7933
Agent	7928
general	7930
special	7930
Agreement	
for sale.....	7583
to buy.....	7585
to buy and sell.....	7585
to sell.....	7584
Alienation, suspension of power of	6733
Annuity	7051
Appurtenances	6671
Articles of incorporation.....	5904
Auction	7625
Authority, actual.....	7946
Baggage	7857
Beneficiary	7881
Bill of lading.....	7828
Bill of sale.....	6842
Book of by-laws.....	5932
Burdens on land.....	6749, 6750
Carrier, common.....	7846
Charter party.....	7755
Chattel interest.....	6727
Chattel, real.....	6727

GENERAL INDEX.

WORDS AND PHRASES (Continued)

Collateral line.....	7077
Collusion.....	5752
Common carrier.....	7846
Concealment.....	8083
Condition	
concurrent.....	7403
precedent.....	7045
subsequent.....	7048
Conditional devise or legacy.....	7044
Conditional obligation.....	7400
Condonation.....	5751
Connivance.....	5787
Consanguinity.....	7077
Consideration, good.....	7503
Consignee.....	7820
Consignor.....	7820
Construction in information.....	11850
statutory, need not be used..	11851
Constructive.....	8780
fraud.....	7481
notice.....	8781
Contingent.....	6691
Contract.....	7467
executed.....	7552
executory.....	7552
express.....	7515
implied.....	7516
Conveyance.....	6842, 6936
Corporation.....	5900
articles of incorporation.....	5904
kinds.....	5901
private.....	5901
public.....	5901
Corrupt practices act, terms used	
in, defined.....	10775
Creditor.....	8599
Cruelty, extreme.....	5738
Damages.....	8659
Debtor.....	8598
Deceit.....	7575
Declaration of trust.....	7905
Defamation.....	5689
Defined, as used in Penal Code...	10713
Degree.....	7076
of kindred.....	7076
Delivery	
constructive.....	6848
of grant, time of creation.....	6721
Deposit.....	7637-7641
for exchange.....	7641
for hire.....	7660
for keeping.....	7640
gratuitous.....	7657
involuntary.....	7638
voluntary.....	7637
Depositary.....	7637
Depositor.....	7637
Desertion.....	5739-5746
Detriment.....	8660
Disposition, testamentary.....	7036
Dominant tenement.....	6751
Dower.....	5813
Duress.....	7477
Duty of county clerk.....	4813a
Easements.....	6749
Employee.....	7756

WORDS AND PHRASES (Continued)

Employer.....	7756
Escrow.....	6846
Estate	
for years.....	6727
in fee.....	6724
Estates	
at will.....	6727
in real property.....	6723
of freehold.....	6727
Exchange.....	7632
Factor.....	7805
Fee.....	6724
Fee simple, fee simple absolute...	6725
Fixtures.....	6669, 6670
Fraud, actual.....	7480
Freeholds.....	6727
Freight.....	7820
Future.....	6686
Gift.....	6882
Gift in view of death.....	6885
Good-will.....	6813, 6814
Grant.....	6842-6874
Guaranty.....	8171
continuing.....	8186
Guardian.....	5868
general.....	5871
special.....	5872
Habitual intemperance.....	5748
Head of family.....	6969
Heirs of body.....	6741
"Heretofore" and "hereafter",	
meaning of.....	8782
Hiring.....	7730
Homestead.....	6945
How construed.....	15
Impossibility.....	7500
In common.....	6682, 6683
Incestuous marriage.....	5699
Income.....	6720
Incumbrances.....	6875
Indemnity.....	8163
Indenture of apprenticeship.....	5890
Insolvency.....	8613
Insurable interest.....	8070
Insurance.....	8060
double.....	8147
marine.....	8153
Insured.....	8065
Insurer.....	8065
Intemperance, habitual.....	5748
Interest of money.....	7723
joint.....	6680
Issue.....	6854
Land.....	6668
Lapse of time.....	5763
Legacy.....	7051
a specific.....	7051
demonstrative.....	7051
Letter of credit.....	8210
general.....	8213
special.....	8213
Libel.....	5690
Lien.....	8219
general.....	8221
special.....	8222
Limitation, conditional.....	6740

GENERAL INDEX.

WORDS AND PHRASES (Continued)

Limited interest.....	6688
Line	7077
Loan	
for exchange.....	7715
for use.....	7702
of money.....	7720
Marriage	5695
Master	7794
Meaning of words.....	8776
Members	5952
Menace	7478
Minor	5673
Mistake	7484
of fact.....	7485
of foreign law.....	7487
of law.....	7486
Mortgage	8246
Mutual consent.....	7488
Neglect, wilful.....	5747
Notice	8780
actual	8780
Novation	7460
Nuisance	8642
private	8644
public	8643
Object of contract.....	7498
Obligation	7394
conditional	7400
Ownership	6663
absolute	6676
conditional	6700
in common.....	6682
joint	6680
partnership	6681
qualified	6677
several	6678
Partnership	6681, 7981
general	7995
partnership property	7983
payment	7429
special	8025
Perpetual	6687
Personal property.....	6672
estates in real property.....	6723
Persons of unsound mind.....	5676
Pledge	8292
Pledge-holder	8299
Policy of insurance.....	8106
open	8116
running	8118
valued	8117
Powers in relation to real estate..	6798
Prescription, title by.....	6818
Present	6685
Preventive relief	8709
Price	7581
Principal	7928
Privileged communication.....	5692
Privileged publication	5692
Product of mind.....	6806
Property	6663
personal	6672
Provisions similar to existing laws	
construed, how	8774
Recrimination	5760

WORDS AND PHRASES (Continued)

Reinsurance	8149
Remainder	6731
Residuary	7052
general	7051
Reversion	6730
Sale	7581
by auction	7625
Satisfaction	7458
Separation	5741, 5742
Servant	7794
Servient tenement.....	6751
Slander	5691
Specific relief	8708
Stockholders	5952
Storage	7660
Succession	7071
Successors of body.....	6741
Surety	8195
Tenement, servient	6751
Testamentary, disposition	7036
Thing in action.....	6804
Third person	8777
Title by prescription.....	6818
Trademark	6812
Transfer	6835
voluntary	6836
Trust	6783, 7878
involuntary	7879
voluntary	7880
Trustee	7881
Trustor	7881
Unlawful	7553
Usage, what	8778
Uses and trusts of real property	6783
Vested	6690
Ward	5869
Warranty	7606
in insurance	8122
When code effective.....	8773
Wilful desertion	5739, 5740
neglect	5747
Will, holographic	6980, 6981

WORK—See Labor

WORK-HOUSE

See Poor Farm..... 4534

WORKMEN—See Labor—See Hours of Labor

WORKMEN'S COMPENSATION ACT

Accidents, duty of employer to report	2934
Act	
effect of unconstitutionality...	2965
election of—See subtitle election of act	
liberal construction of.....	2964
not to affect pending suits....	2967
provisions exclusive, when....	2839
title and parts of.....	2816
when effective	2969
Actions	
abolished as to certain employers, when	2838

GENERAL INDEX.

WORKMEN'S COMPENSATION

ACT (Continued)	
Actions (continued)	
defenses excluded.....	2836
exceptions to rule.....	2837
when employers excepted....	2838
for malpractice	2909
what are questions of law in	2909
Ages of persons entitled to com-	
pensation	2891
American experience table of mor-	
tality used	2936
Amount of compensation.....	2920
Appeals to district court	
from order of board.....	2859
how taken, notice, record and	
trial	2960
orders and judgments.....	2961
Appeals to supreme court.....	2962
Applies to hazardous occupations	2847
Appointed member of board, de-	
fined	2880
Appropriations	2963
Assessment when work comprises	
several occupations.....	2991
Assignment or attachment of pay-	
ments	2927
Awards by board	
amending or rescission.....	2952
increasing or decreasing.....	2956
of nominal indemnity.....	2951
power to make.....	2950
when made	2949
Bankruptcy of employer, liability	
on	2928
Beneficiaries	
defined	2865
not resident, when entitled to..	
.....	2893-2897
payment of compensation to..	2919
Board, defined	2878
Bond of chairman and accountant	464
Books of employer, inspection of	2946
Brothers and sisters, compensation	
to	2891
Bulletins, publication of.....	2833
Burial expense	
amount of	2916
when paid	2916
Casual employment	
contractor becomes employer,	
when	2903
defined	2888
Certified copies of documents as	
evidence	2944
Chairman of board, appointment,	
term and salary.....	2819
Child defined	2869
Children, compensation to.....	2891
compensation to parent or	
guardian	2898
Claims	
exceptions, when.....	2900
when presented	2899
Collateral attack not permitted..	2954
Commissioner defined	2879

WORKMEN'S COMPENSATION

ACT (Continued)	
Compensation	
assignment or attachment of..	2927
beneficiaries not residing in	
United States	2894
beneficiaries, when ceases.....	2892
burial expenses to be paid,	
when	2916
change in degree of injury....	2924
children, brothers and sisters,	
what ages	2891
compromise with nonresident	
beneficiaries	2895
death	2915
dependents not residing in	
United States	2919
disability	
partial	2914
permanent total	2913
temporary total	2912
for specific injuries.....	2920
from what date paid.....	2918
further injuries	2923
hernia	2921
how determined	2920
liability for, under different	
plans	2911
lien in case of bankruptcy....	2928
lump-sum payments.....	2926
major and minor dependents..	2919
not resident in United States	2893
when ceases.....	2892
monthly payments.....	2925
none for first two weeks.....	2918
nonresident beneficiaries	
to whom made.....	2897
when	2896
on death of employee.....	2905
paralysis of limbs.....	2922
payable to parent or guardian	
of child.....	2898
payments, how made.....	2925
plan of compensation—See sub-	
titles plan number one, plan	
number two and plan number	
three	
provisions defined.....	2818
specific injuries enumerated....	2920
temporary total disability.....	2912
to run consecutively.....	2919
total permanent disability....	2913
widow or widower remarrying.	2892
Compromise of claims.....	2926
Construction work includes what.	2848
Contractor becomes employer,	
when	2903
Costs, apportionment of.....	2945
Death	
compensation for injury causing	2915
when injury proximates cause..	2905
Defenses excluded in personal in-	
jury suits.....	2836
employers excepted, when.....	2838
employments excepted, when..	2837
Definitions of words used....2853-	2890
Depositions	2939
Disability, compensation for.2912-	2914

GENERAL INDEX.

WORKMEN'S COMPENSATION

ACT (Continued)

District court	
appeals	
how taken.....	2960
orders and judgments.....	2961
to	2959
contempts	2943
powers concerning production of testimony	2943
Domestic servants excepted from.	2837
Election of act	
by certain employees.....	2842
by certain employers.....	2841
compensation when employer does not elect.....	2846
effect on employer and employees	2839
made or revoked at any time..	2845
not presumed as to employers..	2844
presumed as to employees.....	2844
result of failure to elect.....	2843
time for which employer is bound	2843
Employees	
defined	2863
death of, compensation, when..	2905
in hazardous industries, may elect	2842
physician's examination, when..	2906
when compensation not to be paid	2846
when exclusionary rule applies.	2838
Employers	
defined	2862
duties and rights under compensation plans—See subtitles plan number one, plan number two and plan number three	
duty to report accidents.....	2934
failure to elect, result of.....	2843
liability when work let to other than independent contractor.	2901
may contract for mutual hospital benefits.....	2907
may elect plan, when.....	2841
not subject to exclusionary rule, when	2838
presumption when work let by contract	2902
records open to inspection....	2946
reporting of accidents.....	2934
service of notice of claims....	2933
Engineering defined.....	2859
Evidence, certified copies as....	2944
Factories defined.....	2854
Factories using power-driven machinery, includes what.....	2850
Farm labor excepted from.....	2837
Fees for service of process.....	2941
Findings and awards.....	2949
Fiscal year defined.....	2885
Further injuries, compensation for	2923
General order, defined.....	2882
Hazardous industries, election of plan by.....	2841, 2842

WORKMEN'S COMPENSATION

ACT (Continued)

Hazardous occupations	
act applies to all.....	2847
construction work.....	2848
factories using power-driven machinery	2850
miscellaneous works.....	2851
operation	2849
other arising, to be included...	2852
Hearings, how conducted.....	2938
Hernia cases.....	2921
Hospital benefits mutual, contracts for.....	2907
Hospital services, when furnished	2917
Hospitals under supervision of board	2908
Husband or widower defined....	2877
Independent contractor defined...	2890
Industrial accident board	
alien employees, quarterly report to.....	3040
blank form for reports.....	3041
employers to furnish information	3042
rules and regulations prescribed by board.....	3043
appointment of boiler and mine inspectors by.....	2712, 3035
salaries of inspectors.....	3036
assistants	
appointment of.....	2828
compensation of.....	2829
attorney-general legal adviser..	2835
award of compensation....	2949, 2950
blanks to be provided by.....	2832
bonds	
amount of.....	2822
of members.....	2821
of treasurer.....	2822
chairman, appointment, salary and term.....	2819
composition of board.....	2819
consolidation of boiler and mine inspectors under control of	3034
appointment of inspectors...	3035
inspection fees.....	3038
laws continued in force.....	3039
salary of inspectors.....	3036
state districted for boiler inspection	3037
depositions, taking of.....	2939
ex officio, no compensation....	2823
expenses	
audit of.....	2831
how paid.....	2831
fees of board.....	2834
findings and awards by.....	2949
amending and rescission....	2952
award of compensation.....	2950
nominal indemnity.....	2951
hearings and investigations...	2938
informality in.....	2938
investigation of accidents, orders and recommendations...	3031
jurisdiction over places and conditions of employment.....	3014

GENERAL INDEX.

WORKMEN'S COMPENSATION

ACT (Continued)

Industrial accident board (continued)	
jurisdiction to hear disputes....	2947
minutes and records.....	2832
oaths, administration of.....	2942
office and furnishings.....	2826
temporary quarters.....	2826
orders, approval of.....	2824
powers of board.....	2940
presumption of legality of acts	2948
publication of reports.....	2833
quartz mines, inspection of....	3418
quorum	2824
record and testimony before..	2953
collateral attack prohibited..	2954
transcript of.....	2953
rehearing	
application for.....	2955
application not to stay enforcement	2958
contents of application.....	2957
increasing or decreasing awards	2956
rules of procedure on.....	2958
removal of appointive member, when	2820
report by, of accidents in mines	3424
reports, annual, copies of.....	2968
safety provisions, powers concerning—See subtitle safety provisions	3015-3033
salaries, how paid.....	2830
salary of additional members...	2823
salary of appointive member...	2819
seal	
judicial notice of.....	2825
when used.....	2825
secretary, appointment, term and duties	2827
subpoenas, issuance by.....	2942
term of office.....	2819
treasurer	2819
bond of.....	2822
vacancies in, how filled.....	2820
effect of.....	2824
vocational rehabilitation, duties concerning	3049
witnesses, attendance before...	2942
writs and process	
fees for service.....	2941
power to issue.....	2941
Industrial accident fund	
a trust.....	2966
creation of.....	2993
Industrial administration fund...	2963
Industrial reserve fund.....	3000
Informality in proceedings, effect of	2938
Information confidential.....	2935
Injuries	
compensation for.....	2912-2920
to include death.....	2864
Injury and injured defined.....	2870
Inspection of employer's books...	2946

WORKMEN'S COMPENSATION

ACT (Continued)

Inspection of hazardous places annually	3017
report of inspectors.....	3018
See also subtitle safety provisions	
Inspectors, boilers and mines, appointment of.....	3034-3039
Insurance—See subtitle plan number two	
Insurer defined.....	2887
Invalid defined.....	2868
Issuance of process.....	2941
Legality of acts presumed.....	2948
Liability	
due care, question of law.....	2910
for compensation under different plans.....	2911
for malpractice and mistreatment in hospital.....	2909
Lien of payments.....	2928
Local order defined.....	2883
Lump-sum payments	
Major dependent, defined.....	2866
Major or minor dependents	
payment of compensation to... when not entitled to compensation	2893
Masculine, defined.....	2872
Maximum and minimum compensation	2920
Medical service, when furnished..	2917
Mill defined.....	2856
Mine defined.....	2857
Minor dependent defined.....	2867
Miscellaneous works, include what	2851
Money held in trust, when.....	2966
Mortality tables.....	2936
No compensation first two weeks.	2918
Nonresident beneficiary, when entitled to.....	2893-2897
Nonresident dependents not entitled to.....	2893
Notice of claim, service on employer and insurer.....	2933
Operation, includes what.....	2849
Order defined.....	2881
Paralysis of limbs as loss.....	2922
Partial disability, compensation for	2914
Parts of act.....	2816
Payments, how made.....	2925
lump-sum payments.....	2926
See also subtitle compensation	
Payroll	
defined	2884
estimate to establish.....	2884
how computed.....	3009
misrepresentation of.....	2930
percentage paid to state—See subtitle plan number three ..	2990
Pending actions not affected....	2967
Physician	
includes surgeon.....	2873
testimony of.....	2906
to examine injured, when.....	2906

GENERAL INDEX.

WORKMEN'S COMPENSATION

ACT (Continued)

Plan number one	
deposit of security to guarantee payment, when.....	2976
direct payment plan.....	2970
duplicate receipts to be filed...	2932
election by employer.....	2970
proof of solvency of employer	2971
additional proof, when required	2973
revocation of order.....	2973
employer may settle directly, when	2972
renewal of application.....	2972
employer, when and how relieved from liability.....	2977
failure of employer to pay compensation	2975
action of board.....	2975
enforcement of payment.....	2975
security from employer	
how given.....	2974
when required.....	2974
Plan number three	
application for compensation..	3006
physician to assist.....	3006
application in case of death....	3008
assessment of different classifications	2991
assessments and expenses, how paid	2840
classes subject to payments....	2990
classifications	
changes in.....	2997
subject to rearrangement....	2992
when advisory.....	2992
default, collection on.....	3002
earnings and interest on fund, how credited.....	3011
penalty for profit by treasurer	3011
election by employer and employees, when.....	2990
exclusive for public corporations	2840
industrial accident fund	
amount to be set aside when payment reasonably certain	2999
creation and use.....	2993
deficiency in.....	2998
disbursements from, how made	3010
earnings and interest credited to	3011
investment of reserve.....	3000
treasurer to keep account of segregations	3001
initial payment, when made...	2994
injury happening while employer in default.....	3003
assignment of cause of action to state.....	3004
prosecution or settlement of case	3005
manner and time of making payments	2995
penalty for default.....	2996
penalty for failure to file report	2840

WORKMEN'S COMPENSATION

ACT (Continued)

Plan number three (continued)	
percentage of payroll to be paid to state.....	2990
physician, how paid for certificate	3007
purpose of plan.....	2993
reserve, investment of.....	3000
when contractor is employer...	2840
when exclusive.....	2840
Plan number two	
acceptance to be filed.....	2979
board to approve form of insurance	2982
bonds to be deposited by insurer	2981
deposits as security, control and use of.....	2989
liability of treasurer.....	2989
deposits by insurer with board, when	2984
duplicate receipts to be filed, when	2932
election to insure liability....	2978
insurance, amount fixed by board	2979
insurance companies to report accidents to board.....	2987
insurer, how relieved from liability	2985
policies	
agreements to be contained in	2981
cancellation of.....	2986
changes by board.....	2988
conditions of.....	2988
contents of.....	2980
renewals	2983
subject to act.....	2982
Plant of employer, defined.....	2889
Policies—See subtitle plan number two	
Premium, deduction from wages a misdemeanor	2937
Presumptions as to findings of board	2948
Process, issuance of.....	2827
Public corporations	
defined	2886
penalty for neglect to file payroll	2840
plan number three exclusive...	2840
Quarry defined.....	2858
Questions of law, when.....	2910
Railroads in interstate commerce exempt	2931
Reasonably safe place to work defined	2860
Reasonably safe tools and appliances defined.....	2861
Receipts for payment, filing of...	2932
Records of employers open to inspection	2946
Records of proceedings before board	2953
Reference to plan numbers.....	2817
Rehearing	
appeal to district court...	2959, 2960
application for.....	2955

GENERAL INDEX.

WORKMEN'S COMPENSATION

ACT (Continued)	
Rehearing (continued)	
application not a stay.....	2958
contents of application.....	2957
rules of procedure.....	2957
Report of accident board.....	2968
Reports of accidents, filing of...	2934
Reserve fund, investment and securities	3000
Residence in United States, when necessary for compensation..	2893-2897
Review of orders of board.....	2954
Safety provisions	
act not to deprive other boards of jurisdiction.....	3029
board to grant time, when....	3026
certificate of safety.....	3019
compliance with orders of board commanded	3028
fee for annual inspection.....	3022
fees and fines, disposal of....	3024
fees for subsequent inspection..	3023
hazardous places, annual inspection of.....	3017
inspection	
closing of places, when.....	3021
report of inspectors.....	3018
installation of safety devices ordered, when.....	3020
investigation of accidents....	3031
jurisdiction of board.....	3014
notice of hearing to consider issuance of safety orders.....	3016
orders and rules admissible as evidence	3030
orders concerning unsafe places powers of board regarding	
safety of employees.....	3015
rates, when advanced as penalty	
removal of safety devices forbidden	3013
safety standards, notice to other boards	3029
summary investigation of unsafe places.....	3027
unsafe places for workmen forbidden	3012
violation of safety provisions a misdemeanor	3033
Salaries of board, how paid.....	2830
Salary of appointive member....	2819
Scope of act.....	2847
Singular includes plural.....	2871
Supreme court, appeals to.....	2962
Temporary total disability, compensation for.....	2912
Testimony, powers of district court concerning publication.....	2943
Time for presentation of claims..	2899
exception in case of minors and incompetents	2900
Title of act.....	2816
Total disability, compensation for	
Total permanent disability, what constitutes	2920

WORKMEN'S COMPENSATION

ACT (Continued)	
Wages	
certain deductions forbidden...	2937
defined	2875
determination of, when work not paid for in money.....	2904
payment for specific injuries...	2920
Waivers, invalid.....	2929
Week defined.....	2874
What industries included as hazardous	2847-2852
Who liable for injuries under different plans.....	2911
Widow	
or widower, effect of remarriage	2892
right to compensation, when...	2892
Wife and widow defined.....	2876
Witnesses, fees and mileage....	2942
Workman defined.....	2863
Workshop defined.....	2855
Writs, power to issue.....	2941
Year defined.....	2885
WRECKING TRAINS	
Penalty for.....	11468-11470
WRESTLING-MATCHES	
See also County Athletic Commission	4551-4562
Engaging in, forbidden.....	11296
exception	11296
WRIT	
Defined	10713
Meaning of term.....	16
WRIT OF CERTIORARI	
See Writ of Review.....	9836-9846
WRIT OF ERROR	
To review proceedings as to incorrigible children.....	12505
WRIT OF HABEAS CORPUS	
See Habeas Corpus.....	12348-12380
WRIT OF MANDATE	
Adverse party may answer, when.	9852
Alternative writ	
contents of.....	9850
to issue, when.....	9851
Appeal and new trial.....	9867
Applicant may	
demur to or contradict answer.	9854
recover damages, when.....	9858
peremptory mandate awarded.	9858
Application for.....	9849
By whom issued.....	9848
Costs, recovery of.....	9858
Court may order jury trial	
how conducted.....	9853
jury, how drawn.....	9853
when	9853
Damages, recovery of.....	9858
Defined	9847
District judge may issue at chambers	8867
Execution for costs and damages	9858

GENERAL INDEX.

WRIT OF MANDATE (Continued)

Hearing before court, when.....	9857
How issued.....	9849
Judgment	9858
Jury trial, when ordered.....	9853
May be issued and heard at chambers	9865
Motion for new trial procedure when notice not given or motion denied.....	9856
where made.....	9855
Not granted by default.....	9851
Notice of application.....	9851
Penalty for disobedience to writ.	9860
Peremptory mandate, when issued.....	9858
writ contents of.....	9850
when issued.....	9851
Return	9850-9852
Rule of practice applicable...9866,	9867
Service of, how made.....	9859
Stay on appeal.....	9742
Supreme court may issue, when..	8803
When issued	9848
not to issue.....	9849

WRIT OF PROHIBITION

Alternative writ defined.....	9863
Application for.....	9862
Defined	9861
District court may issue at chambers	8867
Jurisdiction of district court.....	8829
supreme court.....	8803
May be issued and heard at chambers	9865
on nonjudicial days.....	8850
Peremptory writ defined.....	9863
Provisions of preceding chapter applicable	9864
Rules of practice applicable..9866,	9867
When and by whom issued.....	9862

WRIT OF REVIEW

Appeal and new trial.....	9867
Application for, how made.....	9838
By what courts granted.....	9837
Contempt proceedings, issuance in, by supreme court.....	8866
Contents of	9840
Copy of judgment, transmission of	9845
Correction of defective return....	9844
Costs	9796
Defined	9836
District judge may issue at chambers	8867
Extent of review.....	9843
Granted with or without notice...	9838
Hearing and judgment.....	9844
How served.....	9842
Judgment-roll, contents.....	9846
Jurisdiction district courts.....	8829
supreme court.....	8803

WRIT OF REVIEW (Continued)

Justice of supreme court may issue at chambers.....	8866
May be issued and heard at chambers.....	9865
served, when.....	8829, 8850
Provisions of code applicable..9866,	9867
Return	9839
Rules of practice applicable..9866,	9867
Served, how.....	9842
Stay on appeal	9742
proceedings, words, when omitted	9841
To review judgments for contempt of court.....	9921
whom directed.....	9839
When granted.....	9837

WRITING

See also Writings	
Blackmail by.....	11397
Contract signed by one party enforceable by other.....	8718
Destroying written instrument...	11492
Directions to sheriff in.....	4786
Experts on handwriting....10524,	10531
False statement in, to obtain credit	11408
Fraud, effect of, in preventing writing contract	7518
Handwriting—See Writings.....	
.....10524-10531, 10592,	10593
Includes printing.....16,	10713
Interpretation of written contract	7530
Necessary for transfer of trusts.	6877
Presumptive evidence of consideration	7512
Testimony of witnesses in homicide cases.....	11783
Trusts must be in, when.....	6784
Warranty on sale of written instrument	7617
What contracts must be in.....	7519
When control printed matter.....	7542
disregarded in contract.....	7531

WRITINGS

See also Evidence.....10539-10598	
Agreement for "compromise without seal valid	10582
not in writing invalid, when..	10613
Alterations, how and by whom explained	10617
As evidence of consideration....	7512
Called for and inspected may be withheld	10587
Cancellation of written instruments—See Cancellation.....	7570, 8733- 8735
Certificate as to copy of, contents	10573, 10574
Certificate of purchase or location of land prima facie evidence of ownership.....	10575
how overcome.....	10575

GENERAL INDEX.

WRITINGS (Continued)

Certified copies as evidence.....	10598
Circumstances considered in construing	10521
Citizens may inspect public writings	10542
Comparison when over thirty years old	10593
Contents	
how proved.....	10516
of certain official certificates...	10573
Conveyance of real property by..	10611
Copies inserted in pleadings.....	9172
Defined in negotiable instruments law	8402
Entries	
copies of, when allowed.....	10595
in official books prima facie evidence	10570
of decedents, when admissible.	10594
Evidence to vary terms, when admissible	10517
Execution of instrument defined.	10581
Exhibited to witnesses, inspection of	10671
Handwriting	
evidence by comparison..	10592, 10593
experts on.....	10524, 10531
how proved.....	10591
How construed.....	10526
How proved.....	10538, 10589
evidence of execution not necessary, when.....	10590
In custody of adverse party, notice to produce.....	10586
Insertion of copy in pleadings, effect of.....	9172
Inspection and copies, right to make	10542
Inspection of, when and how demanded when action pending	9771
court may exclude, when.....	9771
Judicial record	
defined	10554
how authenticated.....	10556, 10557
Kinds of.....	10539
Language, how interpreted.....	10518
Lost writings	
contents, how proved.....	10516
loss must be proved.....	10585
May be read to jury, when.....	10671
Mistake in, evidence to prove, when admissible.....	10517
Of decedents, when admissible in certain cases.....	10594
Offer in writing equal to payment, when	10680
Opposite party may inspect, when	10671
Original writing	
proof of loss, when made.....	10585
to be produced, when.....	10585
Persons skilled may decipher characters	10524
Private writings	
classified	10577
how acknowledged and proved.	10596
ownership of.....	6811

WRITINGS (Continued)

Production in custody adverse party	10586
Public and private	
statutes defined.....	10548
writings defined.....	10540, 10541
Public officer to give copies.....	10543
Public record of private writings, how proved.....	10569
Public writings, classification of.	10544
Recitals in statutes, how far evidence	10553
Removal of public records forbidden	10597
Repeated entries in course of business deemed originals.....	10595
Representation as to credit of third person to be in writing	10614
Secondary evidence of contents, when admissible.....	10516
Terms, how construed.....	10522
Third person, necessary to charge credit of.....	10614
Unwritten law defined.....	10549
Written	
laws defined	10546, 10547
words control printed.....	10523
Written agreement presumed to contain entire contract.....	10517
exceptions	10517

WRITS

Habeas corpus, justice of supreme court may issue.....	8806
Of execution—See Executions	9416- 9453
Power of	
district courts to issue.....	8829
district judges to issue and hear justices of supreme court concerning	8867
Scire facias abolished.....	8866
Supreme court may issue, when..	8803

WRITTEN INSTRUMENTS

Compulsion to execute, extortion.	11393
False personation.....	11407
Larceny	11377-11379
Mutilation or destruction of....	11492
Obtaining signature to, by means of threats	11392

WRITTEN LAWS

Defined	10546
---------------	-------

WRONGFUL DEATH

Who may sue for.....	9076
----------------------	------

WRONGS

Damages for.....	8686- 8693
Kinds of.....	9002- 9004
Minors, liability for.....	5686
Of agent, principal liable, when..	7966
Persons of unsound mind, liability for	5686
Restoration of thing wrongfully acquired	7577, 7578
Trusts resulting from.....	7887

GENERAL INDEX.

YARD

Divisions of.....	4214
Unit of extension.....	4213

YEAR

Defined	4279, 10713
Fiscal year.....	518, 2147, 5217
Meaning of.....	16
Murder, deceased must die, when.	10961
School, defined.....	1061

YEARS

Of office of	
district judge, how computed...	8819
justice supreme court, how com- puted	8797

YELLOWSTONE COUNTY

Boundaries and county seat.....	4358
---------------------------------	------

**YELLOWSTONE NATIONAL
PARK**

Jurisdiction over.....	23
Service of process in.....	23
Taxation rights reserved.....	23

APPENDIX

TABLE OF CORRESPONDING SECTIONS

This table shows the corresponding sections of the Revised Codes of 1907 and of 1921, and all repeals of sections of the 1907 Codes in the Session Acts from 1909 to 1921, inclusive.

1907	1921	1907	1921	1907	1921	1907	1921
1.....	1	47.....	48	99.....	83	142.....	
2.....	2	48.....	49	100.....	84	Rep. Ch. 109,	
3.....	3	49.....	50	101.....	85	L. 1921	
4.....	4	50.....	51	102.....	86	143.....	122
5.....	5	51.....	52	103.....	87	144.....	123
6.....	6	52.....	Omitted	104.....	88	145.....	124
7.....	7	53.....	53	105.....	89	146.....	125
8.....	8	54.....	54	106.....	99	147.....	126
9.....	9	55.....	55	107.....	100	148.....	127
10.....	10	56.....	56	108.....	101	149.....	128
11.....		57.....	57	109.....	102	150.....	130
Rep. Ch. 4,		58.....	58	110.....	103	151.....	131
L. 1921		59.....	59	111.....	104	152.....	132
12.....	12	60.....	60	112.....	105	153.....	133
13.....	13	61.....	61	113.....	106	154.....	134
14.....	14	62.....	62	114.....	107	155.....	135
15.....	15	63.....	63	115.....	108	156.....	136
16.....	16	64.....	64	116-117.....		157.....	
17.....	17	65-66.....		Rep. Ch. 109,		Rep. Ch. 46,	
18.....	18	Rep. Ch. 1,		L. 1921		L. 1917	
19.....		L. 1915		118.....	92	158.....	137
Rep. Ch. 109,		67.....	65	119.....	93	159.....	138
L. 1921		68.....	66	120.....	94	160.....	139
20.....	19	69.....	67	121.....	95	161.....	140
21.....	20	70.....	68	122.....	96	162.....	141
22.....	21	71.....	69	123.....	97	163.....	142
23.....	24	72.....	70	124.....	98	164.....	144
24.....	25	73.....	71	125.....	109	165.....	145
25.....	26	74.....	72	126.....	110	166.....	146
26.....	27	75.....		127.....		167.....	147
27.....	28	Rep. Ch. 1,		Rep. Ch. 109,		168.....	
28.....	29	L. 1915		L. 1921		Rep. Ch. 123,	
29.....	30	76.....	73	128.....	111	L. 1919	
30.....	31	77.....	74	129.....		169.....	148
31.....	32	78.....	75	Rep. Ch. 109,		170.....	151
32.....	33	79.....	76	L. 1921		171.....	152
33.....	34	80.....		130.....	112	172.....	153
34.....	35	Rep. Ch. 45,		131.....	113	173.....	154
35.....	36	L. 1909		132.....	114	174.....	155
36.....	37	81.....	78	133.....	115	175.....	
37.....	38	82-94 super-		134.....	116	Rep. Ch. 123,	
38.....	39	seded by Cor-		135.....	117	L. 1919	
39.....	40	rupt Prac-		136.....	118	176.....	156
40.....	41	tices Act. (See		137.....	119	177.....	157
41.....	42	Wilkinson v.		138.....		178.....	158
42.....	43	LaCombe, 59		Rep. Ch. 109,		179.....	174
43.....		Mont. 518)		L. 1921		180.....	179
Rep. see				139.....	120	181.....	180
Sec. 45		95.....	79	140.....		182.....	181
44-46.....		96.....	80	Rep. Ch. 109,		183.....	Amd.
Rep. Ch. 109,		97.....	81	L. 1921		See Sec. 182	
L. 1921		98.....	82	141.....	121	184.....	183

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
185.....	184	257.....	263	312.....	384	372.....	448
186.....		258.....	264	313.....		373.....	449
Rep. Ch. 123,		259.....	265	Rep. Ch. 109,		374.....	450
L. 1909		260.....	266	L. 1921		375.....	451
187.....	186	261.....	267	314.....	378	376.....	452
188.....	187	262.....	268	315-316.....		377.....	468
189.....	188	263.....	269	Rep. Ch. 109,		378.....	469
190.....	189	264.....		L. 1921		379.....	470
191.....	190	Rep. Ch. 109,		317.....	385	380.....	471
192.....	191	L. 1921		318.....	386	381.....	472
193.....	199	265.....	317	319.....	387	382.....	473
194.....	200	266.....	318	320.....	388	383.....	474
195.....	201	267.....	319	321.....	391	384.....	475
196.....	202	268.....		322.....	392	385.....	476
197.....	203	Rep. Ch. 71,		323.....	393	386.....	477
198.....	204	L. 1919		324.....		387.....	478
199.....	205	269.....		Rep. Ch. 7,		388.....	479
200.....	206	Rep. Ch. 109,		L. 1921		389.....	480
201-207.....		L. 1921		325.....	394	390.....	481
Rep. Ch. 109,		270.....		326.....	395	391.....	482
L. 1921		Rep. Ch. 97,		327.....	396	392.....	483
208.....	209	L. 1915		328.....	397	393.....	484
209.....	210	271.....	325	329.....	398	394.....	485
210.....	211	272.....	326	330.....	399	395.....	486
211.....	212	273.....	327	331.....	400	396.....	487
212.....	213	274.....	328	332.....	401	397.....	488
213.....	218	275.....	329	333.....	402	398.....	489
214.....	219	276.....	330	334.....	403	399.....	490
215.....	221	277.....	331	335.....	404	400.....	491
216.....	222	278.....	332	336.....	405	401.....	492
217.....	223	279.....	333	337.....	406	402.....	493
218.....	231	280.....	334	338.....	407	403.....	494
219-225.....		281.....	335	339.....	408	404.....	495
Rep. Ch. 109,		282-287.....		340.....		405.....	496
L. 1921		Rep. Ch. 56,		Rep. Ch. 109,		406.....	497
226.....	232	L. 1913		L. 1921		407.....	498
227.....	233	288 Superseded		341.....	409	408.....	499
228.....	234	by Sec. 57, Ch.		342.....	410	409.....	500
229.....	235	216, L. 1921		343.....	411	410.....	501
230.....	236	289.....		344.....	412	411.....	502
231.....	237	Rep. Ch. 109,		345.....	413	412.....	503
232.....	238	L. 1921		346.....	414	413.....	504
233.....	239	290.....	365	347.....	415	414.....	505
234.....	240	291.....	8796	348.....	416	415.....	506
235.....	241	292.....	8814	349.....	417	416.....	507
236.....	242	293.....	8816	350.....	418	417.....	508
237.....	243	294.....	8817	351.....	419	418.....	509
238.....	244	295.....	366	352.....	420	419.....	510
239.....	245	296.....	367	353.....	421	420.....	511
240.....	246	297.....	368	354.....	422	421.....	512
241.....	247	298.....	369	355.....	423	422.....	513
242.....	248	299.....	370	356.....	424	423.....	514
243.....	249	300.....	371	357.....	425	424.....	515
244.....	250	301.....	372	358.....	426	425.....	516
245.....	251	302.....	373	359.....	427	426.....	517
246.....	252	303.....	374	360.....	428	427.....	460
247.....	253	304.....	375	361.....	429	428.....	461
248.....	254	305.....	376	362.....	430	429.....	462
249.....	255	306.....		363.....	431	430.....	526
250.....	256	Rep. Ch. 109,		364.....	432	431.....	527
251.....	257	L. 1921		365.....	433	432.....	528
252.....	258	307.....	379	366.....	434	433.....	529
253.....	259	308.....	380	367.....	435	434.....	463
254.....	260	309.....	381	368.....	444	435.....	442
255.....	261	310.....	382	369.....	445	436.....	453
256.....	262	311.....	383	370.....	446	437.....	454
				371.....	447	438.....	455
						439.....	456

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
440.....	457	523.....	614	589.....	791	674.....	863
441.....	458	524.....	615	590.....	792	675.....	864
442.....	459	525.....	616	591.....	793	676.....	865
443.....	519	526.....	617	592.....	794	677.....	866
444.....	520	527.....	618	593.....	796	678.....	867
445.....	521	528.....	619	594.....	797	679.....	868
446.....	522	529.....	620	595.....	798	680.....	869
447.....	523	530.....	621	596.....	799	681-688...	Omitted
448.....	524	531.....	537	597.....	800	689.....	878
449.....	525	532.....	622	598.....	801	690-691.....	
450.....	531	533.....	623	599.....	802	Rep. Ch. 109,	
451.....	532	534.....	624	600.....	803	L. 1921	
452.....	533	535.....	625	601.....	804	692-695.....	
453.....	534	536.....	626	602.....	805	Rep. Ch. 73,	
454.....	535	537.....	627	603.....	811	L. 1909	
455.....	536	538.....	628	604.....	812	696.....	
456.....	795	539.....	629	605.....	809	Rep. Ch. 109,	
457.....	810	540.....	630	606.....	806	L. 1921	
458.....		541.....	677	607.....	807	697.....	Omitted
Rep. Ch. 109,		542.....	678	608.....	808	698.....	880
L. 1921		543.....	679	609.....	757	699-701.....	
459.....	591	544.....	680	610.....	758	Rep. Ch. 73,	
460.....	602	545.....	681-686	611.....	759	L. 1909	
461.....	539	546.....	687	612.....	760	702.....	
462.....	540	547.....	603	613.....	761	Rep. Ch. 109,	
463.....		548.....	692	614.....	762	L. 1921	
Rep. Ch. 109,		549.....	693	615.....	763	703-704.....	
L. 1921		550.....	694	616.....	764	Rep. Ch. 73,	
464.....	541	551.....	695	617.....	765	L. 1909	
465.....	542	552.....	696	618.....	766	705.....	881
466.....	543	553.....	697	619.....	767	706.....	
467-468.....		554.....	698	620.....	768	Rep. Ch. 109,	
Rep. Ch. 109,		555.....	699	621.....	769	L. 1921	
L. 1921		556.....	688	622.....	770	707-708.....	
469.....	544	557.....	700	623.....	771	Rep. Ch. 73,	
470-493.....		558.....	701	624.....	772	L. 1909	
Rep. Ch. 113,		559.....	702	625.....	773	709-729 ...	Omitted
L. 1911		560.....	703	626.....	813	730-731.....	
494-496.....		561.....	705	627.....	814	Rep. Ch. 109,	
Rep. Ch. 122,		562.....	706	628.....	815	L. 1921	
L. 1915		563.....	707	629.....	816	732.....	889
497.....	550	564.....	708	630.....	817	733.....	Omitted
498.....	551	565.....	709	631.....	818	734.....	
499.....	552	566.....	710	632.....	819	Rep. Ch. 109,	
500.....	587	567.....	711	633.....	820	L. 1921	
501.....	588	568.....	712	634.....	821	735-737.....	
502.....	589	569.....	713	635.....	822	Rep. Ch. 73,	
503.....	590	570.....	714	636.....	823	L. 1909	
504.....	592	571.....		637.....	824	738.....	891
505.....	593	Rep. Ch. 109,		638.....	825	739.....	892
506.....	594	L. 1921		639.....	826	740.....	893
507.....	595	572.....	774	640.....	827	741.....	894
508.....	596	573.....	775	641.....	828	742-755...	Omitted
509.....	597	574.....	776	642-665.....		756.....	898
510.....	604	575.....	777	Rep. Ch. 76,		757-762...	Omitted
511.....	605	576.....	778	L. 1913		763.....	899
512.....	606	577.....	779	666.....	861	764.....	900
513.....	607	578.....	780	667.....		765.....	901
514.....	608	579.....	781	Rep. Ch. 109,		766.....	913
515.....	690	580.....	782	L. 1921		767.....	914
516.....	691	581.....	783	668.....	859	768.....	915
517.....	598	582.....	784	669-671.....		769.....	916
518.....	599	583.....	785	Rep. Ch. 109,		770-771.....	
519.....	600	584.....	786	L. 1921		Rep. Ch. 109,	
520.....	601	585.....	787	672.....		L. 1921	
521.....	612	586.....	788	Rep. Ch. 73,		772.....	926
522.....	613	587.....	789	L. 1911		773.....	927
		588.....	790	673.....	862		

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
774.....		1165.....		1262-1264....		1337-1338....	
Rep. Ch. 109,		Rep. Ch. 73,		Rep. Ch. 73,		Rep. Ch. 141,	
L. 1921		L. 1909		L. 1909		L. 1915	
775.....	929	1166.....	1460	1265.....	1491	1339.....	
776.....		1167.....		1266.....		Rep. Ch. 109,	
Rep. Ch. 73,		Rep. Ch. 109,		Rep. Ch. 109,		L. 1921	
L. 1909		L. 1921		L. 1921		1340-1342....	
777.....		1168.....	1461	1267.....	1498	Rep. Ch. 141,	
Rep. Ch. 109,		1169.....	1462	1268-1269....		L. 1915	
L. 1921		1170.....	1463	Rep. Ch. 109,		1343.....	
778-789.. Omitted		1171.....	1464	L. 1921		Rep. Ch. 109,	
790.....	930	1172.....	1465			L. 1921	
791-1044....		1173.....	1466	1270.....	1499	1344-1368....	
Rep. Ch. 76,		1174.....	1467	1271-1272 Omitted		Rep. Ch. 141,	
L. 1913		1175.....	1468	1273.....	1500	L. 1915	
1045-1110....		1176.....	1469	1274.....		1369-1370....	
Rep. Ch. 191,		1177.....	1470	Rep. Ch. 109,		Rep. Ch. 109,	
L. 1919		1178.....	1471	L. 1921		L. 1921	
1111-1120....		1179-1181....		1275.....	1501	1371-1372....	
Rep. Ch. 57,		Rep. Ch. 109,		1276.....	1502	Rep. Ch. 141,	
L. 1913		L. 1921		1277.....	1503	L. 1915	
1121.....	1418	1182.....	1472	1278.....	1504	1373-1389....	
1122.....	1419	1183.....	1473	1279.....	1505	Rep. Ch. 109,	
1123.....	1420	1184-1206 Omitted		1280.....	1506	L. 1921	
1124.....	1421	1207.....	1547	1281.....	1526	1390.....	
1125.....	1422	1208.....	1548	1282.....	1527	Rep. Ch. 141,	
1126.....	1423	1209.....	1549	1283.....	1528	L. 1915	
1127.....	1424	1210.....	1550	1284.....	1529	1391.....	
1128.....	1425	1211.....	1551	1285.....	1530	Rep. Ch. 109,	
1129.....	1426	1212.....	1552	1286.....	1531	L. 1921	
1130.....	1427	1213.....	1553	1287.....	1532	1392-1396....	
1131.....	1428	1214.....	1554	1288.....	1533	Rep. Ch. 141,	
1132.....	1429	1215.....	1555	1289.....	1534	L. 1915	
1133.....	1430	1216.....	1556	1290.....	1535	1397-1409....	
1134.....	1431	1217.....	1557	1291.....	1536	Rep. Ch. 109,	
1135.....	1432	1218.....	1558	1292.....	1537	L. 1921	
1136.....	1433	1219.....	1559	1293.....	1538	1410.....	
1137.....	1434	1220.....	1560	1294.....	1539	Rep. Ch. 141,	
1138.....	1435	1221.....	1561	1295.....	1540	L. 1915	
1139.....	1436	1222.....	1562	1296-1297 Omitted		1411-1434....	
1140.....	1437	1223.....	1563	1298.....	1541	Rep. Ch. 109,	
1141.....	1438	1224-1226....		1299.....	1542	L. 1921	
1142.....	1439	Rep. Ch. 109,		1300.....	1543	1435.....	1765
1143.....	1440	L. 1921		1301.....	1544	1436-1454....	
1144.....	1441			1302.....	1545	Rep. Ch. 141,	
1145.....	1442	1227.....	1564	1303..... Omitted		L. 1915	
1146.....	1443	1228.....	1565	1304.....		1455.....	
1147.....	1444	1229.....	1566	Rep. Ch. 109,		Rep. Ch. 109,	
1148-1154....		1230.....	1567	L. 1921		L. 1921	
Rep. Ch. 109,		1231.....	1570	1305.....	1546	1456.....	
L. 1921		1232.....		1306.....	1576	Rep. Ch. 141,	
1155.....	1456	Rep. Ch. 109,		1307.....		L. 1915	
1156.....	1457	L. 1921		Rep. Ch. 8,		1457.....	1766
1157.....	1458	1233.....	1571	L. 1909		1458.....	1767
1158-1160....		1234.....	1572	1308.....	1577	1459.....	1768
Rep. Ch. 73,		1235.....	1573	1309.....	1578	1460.....	1769
L. 1909		1236.....	1574	1310.....	1579	1461.....	1770
1161-1162....		1237.....	1575	1311-1323....		1462.....	1771
Rep. Ch. 109,		1238-1248 Omitted		Rep. Ch. 47,		1463.....	1772
L. 1921		1249.....	1484	L. 1911		1464.....	1773
1163.....		1250.....	1485	1324-1325....		1465.....	1774
Rep. Ch. 73,		1251-1258....		Rep. Ch. 109,		1466.....	1775
L. 1909		Rep. Ch. 73,		L. 1921		1467.....	1776
1164.....		L. 1909		1326.....	1604	1468.....	1777
Rep. Ch. 109,		1259.....	1488	1327-1336....		1469.....	1778
L. 1921		1260.....	1489	Rep. Ch. 109,		1470.....	1779
		1261.....	1490	L. 1921		1471.....	1780

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
1472.....	1781	1579.....	3111	1650.....	2721	1738.....	3073
1473.....	1782	1580.....		1651.....	2722	1739.....	3079
1474.....		Rep. Ch. 132,		1652.....	2723	1740.....	3080
Rep. Ch. 157,		L. 1909		1653.....	2724	1741.....	3081
L. 1919		1581.....	3112	1654.....	2725	1742.....	3082
1475.....	2448	1582.....	3113	1655.....	2726	1742..C. C. P.	
1476.....	2449	1583.....	3114	1656.....	2727	1895.....	9750
1477.....	2450	1584.....	3115	1657.....	2728	1743.....	3083
1478.....		1585.....	3116	1658.....		1744-1745....	
Rep. Ch. 157,		1586.....	3117	Rep. Ch. 109,		Rep. Ch. 109,	
L. 1919		1587.....	3118	L. 1921		L. 1921	
1479.....	2447	1588.....	3119	1659.....	2729	1746.....	3095
1480.....	2451	1589.....	3120	1660.....	336	1747.....	3096
1481.....	2452	1590.....	3121	1661.....	337	1748.....	3097
1482.....	2453	1591.....	3122	1662.....	338	1749.....	3098
1483.....	2454	1592.....	3123	1663.....	339	1750.....	3099
1484.....	2464	1593.....	3124	1664.....	340	1751.....	3100
1485.....	2465	1594.....	3125	1665.....	345	1752.....	3101
1486.....	2466	1595.....	3126	1666.....	346	1753.....	3103
1487.....	2467	1596.....	3127	1667.....	347	1754.....	3104
1488.....	2468	1597.....	3128	1668.....	348	1755.....	3092
1489.....	2469	1598.....	3129	1669.....	349	1756.....	3093
1490.....	2471	1599.....	3130	1670.....	3052	1757.....	3094
1491.....	2472	1600.....	3131	1671.....	3053	1758.....	
1492.....	2473	1601.....	3132	1672.....	3054	Rep. Ch. 109,	
1493.....	2474	1602.....	3133	1673.....	3055	L. 1921	
1494.....	2475	1603.....	3134	1674.....	3056	1759.....	2520
1495.....	2476	1604.....	3135	1675.....	3057	1760.....	2521
1496.....	2477	1605.....	3136	1676.....	3058	1761.....	
1497.....	2470	1606.....	3137	1677.....	3059	Rep. Ch. 109,	
1498.....	2455	1607.....	3155	1678.....	3060	L. 1921	
1499.....	2456	1608.....	3156	1679-1710....		1762.....	2522
1500.....	2457	1609.....	3157	Rep. Ch. 120,		1763.....	2523
1501.....	2478	1610.....	3158	L. 1911		1764.....	2515
1502.....	2479	1611.....	3159	1711.....	3418	1765.....	2516
1503.....	2480	1612.....	3160	1712.....		1766.....	2517
1504.....	2481	1613.....	3161	Rep. Ch. 109,		1767.....	2525
1505.....	2458	1614.....	3162	L. 1921		1768.....	2526
1506.....	2482	1615.....	3163	1713.....	3419	1769.....	2527
1507.....	2483	1616.....	3164	1714.....	3420	1770.....	2528
1508.....	2484	1617.....	3165	1715.....	3421	1771.....	2529
1509.....	2462	1618.....	3166	1716.....	3422	1772.....	2530
1510.....	2459	1619.....	3167	1717.....	3423	1773.....	2531
1511.....	2460	1620.....	3168	1718.....		1774.....	2532
1512-1558....		1621.....	3169	Rep. Ch. 109,		1775.....	2533
Rep. Ch. 262,		1622-1633....		L. 1921		1776.....	2534
L. 1921		Rep. Ch. 134,		1719.....	3424	1777.....	2535
1559.....	2641	L. 1915		1720.....	3425	1778.....	2536
1560.....	2642	1634.....	3184	1721.....	3426	1779.....	2537
1561.....	2643	1635.....		1722.....	3427	1780.....	2538
1562.....	2647	Rep. Ch. 134,		1723.....	3428	1781.....	2539
1563.....	2648	L. 1915		1724.....	3429	1782-1789....	
1564.....	2649	1636.....	3185	1725.....	3430	Rep. Ch. 51,	
1565.....	2650	1637.....	2429	1726.....	3431	L. 1917	
1566.....	2651	1638.....	Omitted	1727.....	3061	1790.....	3299
1567.....	2652	1639.....	2712	1728.....		1791.....	
1568.....	2653	1640.....	2713	Rep. Ch. 51,		Rep. Ch. 144,	
1569.....	2654	1641-1642....		L. 1921		L. 1921	
1570.....	2655	Rep. Ch. 109,		1729.....	3062	1792.....	
1571.....	2656	L. 1921		1730.....	3063	Rep. Ch. 109,	
1572.....	2657	1643.....	2714	1731-1733....		L. 1921	
1573.....	3105	1644.....	2715	Rep. Ch. 109,		1793.....	3300
1574.....	3106	1645.....	2716	L. 1921		1794-1795....	
1575.....	3107	1646.....	2717	1734.....	3068	Rep. Ch. 206,	
1576.....	3108	1647.....	2718	1735.....	3069	L. 1919	
1577.....	3109	1648.....	2719	1736.....	3071	1796.....	3309
1578.....	3110	1649.....	2720	1737.....	3072	1797.....	3310

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
1798.....	3311	1927.....		2027.....	4277	2098-2099....	
1799.....	3312	Rep. Ch. 216,		2028.....	4278	Rep. Ch. 216,	
1800.....	3313	L. 1921		2029.....	4279	L. 1921	
1801.....	3314	1928-1929....		2030.....	4280	2100.....	
1802.....	3315	As amended		2031.....	4281	Rep. Ch. 187,	
1803.....	3316	by Ch. 121,		2032.....	4282	L. 1921	
1804.....	3317	L. 1911. 3622-3623		2033.....	4283	2101.....	
1805.....	3318	1930-1934....		2034.....	4284	Rep. Ch. 216,	
1806.....	3319	Rep. Ch. 216,		2035.....	4285	L. 1921	
1807.....	3320	L. 1921		2036.....	4286	2102.....	
1808.....	3324	1935.....		2037.....	4287	Rep. Ch. 187,	
1809.....	3325	As amended		2038.....	4288	L. 1921	
1810.....	3326	by Ch. 99,		2039.....	4289	2103.....	4291
1811.....	3327	L. 1915....	3626	2040.....	4290	2104.....	4292
1812.....	3321	1936-1944....		2041-2049....		2105.....	4186
1813.....	3322	Rep. Ch. 216,		Rep. Ch. 109,		2106.....	4187
1814.....	3323	L. 1921		L. 1921		2107.....	4188
1815.....	3328	1945-1947....		2050.....	4521	2108.....	4189
1816.....	3329	Rep. Ch. 121,		2051.....	4522	2109.....	4190
1817.....	3330	L. 1911		2052.....	4523	2110.....	4191
1818.....	3331	1948.....		2053.....	4524	2111.....	4192
1819.....	3332	Rep. Ch. 109,		2054.....	4525	2112-2118....	
1820.....	3341	L. 1921		2055.....	4526	Rep. Ch. 109,	
1821.....	3342	1949-1987....		2056.....	4527	L. 1921	
1822.....	3343	Rep. Ch. 193,		2057.....	4528	2119.....	4147
1823.....	3344	L. 1921		2058.....	4529	2120.....	4148
1824.....	3345	1988.....	5168	2059.....	4530	2121-2125....	
1825-1835....		1989.....	5169	2060.....	4531	Rep. Ch. 15,	
Rep. Ch. 109,		1990.....	5170	2061.....	4532	L. 1921	
L. 1921		1991.....	5171	2062.....	4533	2126.....	4149
1836-1853....		1992.....	5172	2063.....	4534	2127.....	4150
Rep. Ch. 262,		1993.....	5173	2064.....	4535	2128.....	4151
L. 1921		1994.....	5174	2065.....	4536	2129.....	4152
1854-1861....		1995.....		2066.....	4537	2130.....	4153
Rep. Ch. 51,		Rep. Ch. 199,		2067.....	4538	2131.....	4154
L. 1917		L. 1921		2068.....	4539	2132.....	4155
1862-1880....		1996.....	7694	2069.....	4540	2133.....	4156
Rep. Ch. 157,		1997.....	7695	2070.....	4541	2134-2137....	
L. 1917		1998.....	7696	2071.....	2776	Rep. Ch. 15,	
1881.....	3390	1999.....	7697	2072.....	2777	L. 1921	
1882.....	3391	2000.....	7698	2073.....	2778	2138.....	2658
1883.....	3392	2001.....	7699	2074.....	5141	2139.....	2659
1884-1903....		2002.....	7700	2075.....	5142	2140.....	2660
Rep. Ch. 157,		2003.....	7667	2076.....	5143	2141.....	2661
L. 1917		2004.....	7668	2077.....	5144	2142.....	2662
1904.....	3407	2005.....	7669	2078.....	5145	2143.....	2663
1905.....	3408	2006.....	7670	2079.....	5146	2144.....	2664
1906.....	3409	2007.....	7671	2080.....	5147	2145.....	2665
1907-1908....		2008.....	7672	2081.....	5148	2146.....	2666
Rep. Ch. 109,		2009.....	4212	2082.....	3374	2147.....	2667
L. 1921		2010.....	4213	2083.....	3375	2148.....	2668
1909.....	3414	2011.....	4214	2084.....	3376	2149.....	2669
1910.....	3415	2012.....	4215	2085.....	6778	2150.....	2670
1911.....	3416	2013.....	4216	2086.....	6779	2151.....	2671
1912.....	3417	2014.....	4217	2087.....	6780	2152-2221....	
1913-1916....		2015.....	4218	2088.....	6781	Rep. Ch. 109,	
Rep. Ch. 109,		2016.....	4219	2089.....	6782	L. 1921	
L. 1921		2017.....	4220	2090.....	3378	2222-2224 Omitted	
1917-1925....		2018.....	4221	2091.....	3379	2225-2237....	
Rep. Ch. 216,		2019.....	4222	2092.....		Rep. Ch. 109,	
L. 1921		2020.....	4223	Rep. Ch. 109,		L. 1921	
1926.....		2021.....	4224	L. 1921		2238.....	1949
As amended		2022.....	4225	2093.....	3930	2239.....	1950
by Ch. 121,		2023.....	4226	2094.....	3931	2240.....	1951
L. 1911....	3616	2024.....	4228	2095.....	3634	2241.....	1952
		2025.....	4233	2096.....	3377	2242.....	1953
		2026.....	4234	2097.....	530	2243.....	1954

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
2244.....	1955	2309-2402....		2563-2571....		2640.....	2193
2245.....	1957	Rep. Ch. 146,		Rep. Ch. 237,		2641.....	2194
2246.....	1958	L. 1909		L. 1921		2642.....	2195
2247.....	1959	2403-2497....		2572.....	2113	2643.....	2196
2248.....	1960	Rep. Ch. 147,		2573.....	2114	2644.....	2197
2249.....	1961	L. 1915		2574.....	2115	2645.....	2201
2250.....	1962	2498.....	1997	2575.....	2116	2646.....	2202
2251.....	1963	2499.....	1998	2576.....	2117	2647.....	2203
2252.....	1964	2500.....	2088	2577.....	2118	2648.....	2204
2253.....	Omitted	2501.....	1996	2578-2579....		2649.....	2205
2254.....	1965	2502.....	2001	Rep. Ch. 109,		2650.....	2206
2255.....	1966	2503-2505....		L. 1921		2651.....	2209
2256.....	1967	Rep. Ch. 31,		2580.....	2119	2652.....	2212
2257.....	1968	L. 1915		2581.....	2120	2653.....	2213
2258.....	1969	2506.....	2063	2582.....	2121	2654.....	2214
2259.....	1970	2507.....		2583.....	2122	2655.....	2215
2260.....	1971	Rep. Ch. 109,		2584-2592....		2656.....	2216
2261.....	1972	L. 1921		Rep. Ch. 48,		2657 Supersed-	
2262.....	1973	2508.....	2022	L. 1919		ed by 2684	
2263.....	1974	2509.....	2023	2593.....	2147	2658.....	2241
2264.....	1975	2510.....	2002	2594.....	518	2659.....	2242
2265.....	1976	2511.....	2003	2595-2596....		2660.....	2243
2266.....	1977	2512.....	2004	Rep. Ch. 109,		2661.....	2244
2267.....	1978	2513.....	2005	L. 1921		2662.....	2245
2268.....	1979	2514.....	2006	2597.....	2149	2663.....	2246
2269.....	1980	2515.....	2007	2598.....	2150	2664.....	2217
2270.....		2516.....	2008	2599.....	2151	2665.....	2218
Rep. Ch. 111,		2517.....	2009	2600.....	2152	2666.....	2219
L. 1909		2518.....	2010	2601.....	2153	2667.....	2220
2271.....	1981	2519.....	2011	2602.....	2154	2668.....	2221
2272.....	1982	2520.....	2012	2603.....	2155	2669.....	2222
2273.....	1983	2521.....	2013	2604.....	2156	2670.....	2223
2274.....	1984	2522.....	2014	2605.....	2157	2671.....	2224
2275.....	1985	2523.....	2015	2606.....	2158	2672.....	2225
2276.....	1986	2524.....	2016	2607.....	2159	2673.....	2226
2277.....	1987	2525.....	2017	2608.....	2160	2674.....	2227
2278.....	1988	2526.....	2018	2609.....	2161	2675.....	2228
2279.....	1989	2527.....	2019	2610.....	2162	2676.....	2229
2280.....	1990	2528.....	2020	2611.....	2163	2677.....	2230
2281.....	1991	2529.....	2021	2612.....	2164	2678.....	2231
2282.....	Omitted	2530.....	2068	2613.....	2165	2679.....	2232
2283.....	7365	2531-2539....		2614.....	2166	2680.....	2233
2284.....	7366	Rep. Ch. 109,		2615.....	2167	2681.....	2234
2285.....	7369	L. 1921		2616.....	2169	2682.....	2235
2286.....	7370	2540.....	2032	2617.....	2170	2683.....	2238
2287.....	7371	2541.....	2033	2618.....	2171	2684.....	2239
2288.....	7372	2542.....	2034	2619.....	2172	2685.....	2240
2289.....	7373	2543.....	2048	2620.....	2173	2686.....	2247
2290.....	7374	2544.....	2049	2621.....	2174	2687.....	2248
2291.....	7375	2545.....	2050	2622.....	2175	2688.....	2249
2292.....	7376	2546.....	2051	2623.....	2176	2689.....	2250
2293.....	7377	2547.....	2052	2624.....	2177	2690.....	2251
2294.....	7378	2548.....	2053	2625.....	2178	2691.....	2252
2295.....	7379	2549.....	2054	2626.....	2179	2692.....	2273
2296.....	7380	2550.....	2055	2627.....	2180	2693.....	2274
2297.....	7382	2551.....	2056	2628.....	2181	2694.....	2275
2298.....	7383	2552.....	2057	2629.....	2182	2695.....	2276
2299.....	7384	2553.....	2039	2630.....	2183	2696.....	2277
2300.....	7385	2554.....	2040	2631.....	2184	2697.....	2278
2301.....	7386	2555.....	2041	2632.....	2185	2698.....	2279
2302.....	7387	2556.....	2131	2633.....	2186	2699.....	2280
2303.....	7388	2557.....	2132	2634.....	2187	2700.....	2281
2304.....	7389	2558.....	2133	2635.....	2188	2701.....	2282
2305.....	7390	2559.....	2134	2636.....	2189	2702.....	2283
2306.....	7391	2560.....	2135	2637.....	2190	2703.....	2284
2307.....	7392	2561.....	2136	2638.....	2191	2704.....	2285
2308.....	7393	2562.....	2137	2639.....	2192	2705.....	2286

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
2706.....	2287	2773-2774....		2890.....	4461	2953.....	4814
2707.....	2288	Rep. Ch. 79,		2891.....	4462	2954.....	4520
2708.....	2289	L. 1917		2892.....	4463	2955.....	4723
2709.....	2290	2775.....	2438	2893.....	4464	2956.....	4724
2710.....	2291	2776.....	2440	2894.....	4465	2957.....	4725
2711.....	2292	2777.....		2895.....	4468	2958.....	4726
2712.....	2293	Rep. Ch. 79,		2896.....	4469	2959.....	4727
2713.....	2294	L. 1917		2897.....		2960.....	4728
2714.....	2295	2778.....	2441	Rep. Ch. 71,		2961.....	4729
2715.....	2255	2779.....	2442	L. 1917		2962.....	4730
2716.....	2256	2780.....	2443	2898.....		2963.....	4731
2717.....	2257	2781.....	4293	Rep. Ch. 68,		2964.....	4732
2718.....	2258	2782.....		L. 1909		2965.....	4733
2719.....	2259	Rep. Ch. 109,		2899.....	4471	2966.....	4734
2720.....	2260	L. 1921		2900.....	4472	2967.....	4735
2721.....	2261	2783.....	Omitted	2901.....	4473	2968.....	4736
2722.....	2262	2784.....	4294	2902.....	4474	2969.....	4737
2723.....	2263	2785.....	4295	2903.....	4475	2970.....	4738
2724.....	2264	2786.....	4296	2904.....	4476	2971.....	4739
2725.....	2265	2787.....	4297	2905.....	4614	2972.....	4740
2726.....	2266	2788-2843	Omitted	2906.....	4615	2973.....	4741
2727.....	2267	2844.....	4298	2907.....	4616	2974.....	
2728.....	2058	2845.....	4299	2908.....	4617	Rep. Ch. 109,	
2729.....	2059	2846.....	4300	2909.....	4619	L. 1921	
2730.....	2060	2847.....	4301	2910.....	4620	2975.....	4742
2731.....	2061	2848.....	4302	2911.....	4621	2976-2977....	
2732.....	2036	2849.....	4303	2912.....	4622	Rep. Ch. 229,	
2733.....	2062	2850.....	4304	2913.....	4623	L. 1921	
2734.....	2042	2851.....	4369	2914.....	4624	2978.....	4744
2735.....	Omitted	2852.....	4370	2915.....	4625	2979-2980....	
2736.....	2037	2853.....	4371	2916.....	4626	Rep. Ch. 109,	
2737.....	2168	2854.....	4372	2917.....	4627	L. 1921	
2738.....	2253	2855.....	4373	2918.....	4628	2981.....	4745
2739.....	2254	2856.....	4374	2919.....	4629	2982.....	4746
2740.....	2035	2857.....	4375	2920.....	4630	2983.....	4747
2741.....	2268	2858.....	4376	2921.....	4631	2984.....	4748
2742.....	2269	2859.....	4377	2922.....	4632	2985.....	4749
2743.....	2270	2860.....	4408	2923.....	4633	2986.....	4750
2744.....	2271	2861.....	4409	2924.....	4634	2987.....	4751
2745.....	2272	2862.....	4410	2925.....	4635	2988.....	4752
2746.....	2410	2863.....	4411	2926.....	4636	2989.....	4753
2747.....	2411	2864.....	4412	2927.....	4545	2990.....	4754
2748.....	2412	2865.....	4413	2928.....	4546	2991.....	4755
2749.....	2413	2866.....	4414	2929.....	4547	2992.....	4756
2750.....	2414	2867.....	4415	2930.....	4548	2993.....	4757
2751.....	2415	2868.....	4416	2931.....	4549	2994.....	4758
2752.....	2416	2869.....	4417	2932.....	4550	2995.....	4759
2753.....	2417	2870.....	4441	2933.....	4717	2996.....	4760
2754.....	2418	2871.....	4442	2934.....	4718	2997.....	4761
2755.....	2419	2872.....	4443	2935.....	4719	2998.....	4762
2756.....	2420	2873.....	4444	2936.....	4720	2999.....	4763
2757.....		2874.....	4445	2937.....	4721	3000.....	4764
Rep. Ch. 109,		2875.....	4446	2938.....	4722	3001.....	4765
L. 1921		2876.....	4447	2939.....	4515	3002.....	4766
2758.....	2434	2877.....	4448	2940.....	4516	3003.....	4767
2759-2762....		2878.....	4449	2941.....	4517	3004.....	4768
Rep. Ch. 109,		2879.....	4450	2942.....	4518	3005.....	4769
L. 1921		2880.....	4451	2943.....	4519	3006.....	4770
2763.....	2435	2881.....	4452	2944.....	4604	3007.....	4771
2764-2769....		2882.....	4453	2945.....	4605	3008.....	4772
Rep. Ch. 109,		2883.....	4454	2946.....	4609	3009.....	4773
L. 1921		2884.....	4455	2947.....	4610	3010.....	4774
2770.....	2436	2885.....	4456	2948.....	4611	3011.....	4775
2771.....		2886.....	4457	2949.....	4612	3012.....	4776
Rep. Ch. 109,		2887.....	4458	2950.....	4613	3013.....	4777
L. 1921		2888.....	4459	2951.....	4606	3014.....	4778
2772.....	2437	2889.....	4460	2952.....	4607	3015.....	4779

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
3016.....	4780	3083.....	10000	3144.....	4892	3209.....	4962
3017.....	4781	3084.....	10001	3145.....	4893	3210.....	4963
3018.....	4782	3085.....	10002	3146.....	4894	3211.....	4964
3019.....	4783	3086.....	10003	3147.....	4895	3212.....	4976
3020.....	4784	3087.....	10004	3148.....	4896	3213.....	4977
3021.....	4785	3088.....	10005	3149.....	4897	3214.....	4978
3022.....	4786	3089.....	10006	3150.....	4898	3215.....	4979
3023.....	4787	3090.....	10007	3151.....	4899	3216.....	4995
3024.....	4788	3091.....	10008	3152.....	4900	3217.....	4996
3025.....	4789	3092.....	10009	3153.....	4902	3218.....	4997
3026.....	4790	3093-3095....		3154.....	4903	3219.....	4998
3027.....	4791	Rep. Ch. 109,		3155.....	4904	3220.....	4999
3028.....	4792	L. 1921		3156.....	4905	3221.....	5000
3029.....	4793	3096.....	4859	3157.....	4906	3222.....	5001
3030.....	4794	3097.....	4860	3158.....	4907	3223.....	5002
3031.....	4795	3098.....	4861	3159.....	4908	3224.....	5003
3032.....	4796	3099.....	4862	3160.....	4909	3225.....	5004
3033.....	4799	3100.....	4824	3161.....	4910	3226.....	5005
3034.....	4800	3101.....	4825	3162.....	4911	3227.....	5006
3035.....	4801	3102.....	4826	3163.....	4912	3228.....	5007
3036.....	4802	3103.....	4827	3164.....	4913	3229.....	5008
3037.....	4803	3104.....	4828	3165.....	4914	3230.....	5009
3038.....	4804	3105.....	4829	3166.....	4915	3231.....	5010
3039.....	4805	3106.....	4830	3167.....	4916	3232.....	5011
3049.....	4806	3107.....	4831	3168.....	4917	3233.....	5012
3041.....	4807	3108.....	4832	3169.....	4918	3234.....	5013
3042.....	4808	3109.....	4833	3170.....	4919	3235.....	5014
3043.....	4809	3110.....	4834	3171.....	4920	3236.....	5015
3044.....	4810	3111.....	4884	3172.....	4921	3237.....	5016
3045.....	4811	3112.....	4864	3173.....	4922	3238.....	5017
3046.....	4812	3113.....	4865	3174.....	4923	3239.....	5018
3047.....	4813	3114.....	4863	3175-3176....		3240.....	5019
3048.....	4815	3115.....	4866	Rep. Ch. 55,		3241.....	5020
3049.....	4816	3116.....	4867	L. 1921		3242.....	5021
3050.....	4817	3117.....	4868	3177.....	4932	3243.....	5022
3051.....	4818	3118.....	4873	3178.....	4933	3244.....	5023
3052.....	4819	3119.....	4875	3179.....	4937	3245.....	5024
3053.....	4820	3120-3122....		3180.....	4934	3246.....	5025
3054.....	4821	Rep. Ch. 109,		3181.....	4935	3247.....	5026
3055.....	4822	L. 1921		3182.....	4936	3248.....	5027
3056.....	4823	3123.....	4878	3183.....	4938	3249.....	5029
3057.....	4839	3124.....	4879	3184.....	4939	3250.....	5030
3058.....	4840	3125.....	10925	3185.....	4940	3251.....	5031
3059.....	4841	3126.....	10926	3186.....	4941	3252.....	5032
3060.....	4842	3127.....	10927	3187.....	4942	3253.....	5033
3061.....	4843	3128.....	4880	3188.....	4943	3254.....	5037
3062.....	4844	3129.....	4882	3189.....	4944	3255.....	
3063.....	4845	3130.....	4883	3190.....	4945	Rep. Ch. 109,	
3064.....	4846	3131-3132....		3191.....	4946	L. 1921	
3065.....	4847	Rep. Ch. 132,		3192.....	4947	3256.....	5038
3066.....	4848	L. 1911		3193-3194....		3257 5034-5035	5036
3067.....	4849	3133-3134....		Rep. Ch. 109,		3258.....	5028
3068.....	4850	Rep. Ch. 109,		L. 1921		3259.....	5039
3069.....	4851	L. 1921		3195.....	4948	3260.....	5040
3070.....	4852	3135.....		3196.....	4949	3261.....	5052
3071.....	4853	Rep. Ch. 109,		3197.....	4950	3262.....	5053
3072.....	4854	L. 1921		3198.....	4951	3263.....	5054
3073.....	9990	Rep. Ch. 132,		3199.....	4952	3264.....	5055
3074.....	9991	L. 1911		3200.....	4953	3265.....	5056
3075.....	9992	3136.....	4872	3201.....	4954	3266.....	5058
3076.....	9993	3137.....	4885	3202.....	4955	3267.....	5059
3077.....	9994	3138.....	4886	3203.....	4956	3268.....	5060
3078.....	9995	3139.....	4887	3204.....	4957	3269.....	5061
3079.....	9996	3140.....	4888	3205.....	4958	3270.....	5062
3080.....	9997	3141.....	4889	3206.....	4959	3271.....	5063
3081.....	9998	3142.....	4890	3207.....	4960	3272.....	5064
3082.....	9999	3143.....	4891	3208.....	4961	3273.....	5065

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
3274.....	5066	3336.....	5119	3442.....	5301	3509.....	5326
3275.....	5067	3337.....	5120	3443.....	5302	3510.....	5327
3276.....	5068	3338.....	5121	3444.....	5303	3511.....	5328
3277.....	5069	3339.....	5122	3445.....	5304	3512.....	5329
3278.....	5070	3340.....	5123	3446.....	5305	3513.....	5330
3279.....	5071	3341.....	5124	3447.....	4969	3514.....	5331
3280.....	5072	3342.....	5194	3448.....	4970	3515.....	5332
3281.....	5073	3343.....	5200	3449.....	4971	3516.....	5333
3282-3283....		3344.....	5201	3450.....	4972	3517.....	5334
Rep. Ch. 109,		3345.....	5202	3451.....	4973	3518.....	5335
L. 1921		3346.....	5203	3452.....	4974	3519.....	5336
3284.....	5081	3347.....	5204	3453.....	4975	3520.....	5337
3285.....	5082	3348.....	5205	3454.....	5278	3521.....	5338
3286.....	5083	3349.....	5206	3455.....	5279	3522.....	5339
3287.....	5079	3350.....		3456.....	5280	3523.....	5340
3288.....	5078	Rep. Ch. 109,		3457.....	5281	3524.....	5341
3289.....	5080	L. 1921		3458.....	5282	3525.....	5342
3290.....	5074	3351.....	5209	3459.....	5283	3526.....	5343
3291.....	5075	3352.....	5219	3460.....	5284	3527.....	5344
3292.....	5076	3353.....	5211	3461.....	5285	3528.....	5345
3293.....	5077	3354.....	5212	3462.....	5286	3529.....	5346
3294.....	5045	3355.....	5213	3463.....	5287	3530.....	5347
3295.....	5046	3356.....	5214	3464.....	5288	3531.....	5348
3296.....	5087	3357.....	5215	3465.....	4980	3532.....	5349
3297.....	5088	3358.....	5216	3466.....	4981	3533.....	5350
3298.....	5089	3359.....	5217	3467.....	4982	3534.....	5351
3299.....	5090	3360.....	5218	3468.....	4983	3535.....	5352
3300.....	5091	3361.....	5219	3469.....	4984	3536.....	5353
3301.....	5092	3362.....	5220	3470.....	4985	3537.....	5354
3302.....	5093	3363.....	5221	3471.....	4986	3538.....	5355
3303.....	5094	3364.....	5222	3472.....	4987	3539.....	5357
3304.....	5095	3365.....	5223	3473.....	4988	3540.....	5358
3305.....	5096	3366.....	5224	3474.....	4989	3541.....	5359
3306.....	5097	3367.....		3475.....	4990	3542.....	5360
3307.....	5098	Rep. Ch. 89,		3476.....	4991	3543.....	5361
3308.....	5099	L. 1913		3477.....	4992	3544.....	5362
3309.....	5100	3368.....	5226a	3478.....	4993	3545.....	5363
3310.....	5101	3369-3389....		3479.....	5306	3546.....	5364
3311.....	5102	Rep. Ch. 89,		3480.....	5307	3547.....	5365
3312.....	5103	L. 1913		3481.....	4965	3548.....	5308
3313.....	4104	3390.....	5272	3482.....	4966	3549.....	5309
3314.....	5105	3391.....	5273	3483.....	4967	3550.....	5670
3315.....	5106	3392.....	5274	3484.....	4968	3551.....	5671
3316.....	5107	3393.....	5275	3485.....	5086	3552.....	5672
3317.....	5108	3394.....	5276	3486.....	5084	3553.....	5521
3318.....	5161	3395.....	5277	3487.....	5085	3554.....	5522
3319.....	5162	3396-3412....		3488.....	5049	3555.....	5523
3320.....	5163	Rep. Ch. 89,		3489.....	5050	3556.....	5524
3321.....	5164	L. 1913		3490.....	5051	3557.....	
3322.....		3413-3417....		3491.....	8891	Rep. Ch. 109,	
Rep. Ch. 109,		Rep. Ch. 175,		3492.....	5057	L. 1921	
L. 1921		L. 1919		3493.....	5310	3558.....	5525
3323.....	5165	3418-3429....		3494.....	5311	3559.....	Omitted
3324.....		Rep. Ch. 89,		3495.....	5312	3560.....	5526
Rep. Ch. 109,		L. 1913		3496.....	5313	3561.....	5527
L. 1921		3430.....	5289	3497.....	5314	3562.....	5528
3325.....	5140	3431.....	5290	3498.....	5315	3563.....	5529
3326.....	5109	3432.....	5291	3499.....	5316	3564.....	5530
3327.....	5110	3433.....	5292	3500.....	5317	3565.....	5530
3328.....	5111	3434.....	5293	3501.....	5318	3566-3582	Omitted
3329.....	5112	3435.....	5294	3502.....	5319	3583.....	5669
3330.....	5113	3436.....	5295	3503.....	5320	Addenda.....	304
3331.....	5114	3437.....	5296	3504.....	5321	3584.....	5673
3332.....	5115	3438.....	5297	3505.....	5322	3585.....	5674
3333.....	5116	3439.....	5298	3506.....	5323	3586.....	5673
3334.....	5117	3440.....	5299	3507.....	5324	3587.....	5675
3335.....	5118	3441.....	5300	3508.....	5325	3588.....	5676

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
3589.....	5677	3656.....	5749	3721.....	5826	3788.....	5883
3590.....	5678	3657.....		3722.....	5827	3789.....	5884
3591.....	5679	Rep. Ch. 109,		3723.....	5828	3790.....	5885
3592.....	5680	L. 1921		3724.....	5800	3791.....	5886
3593.....	5681	3658.....	5750	3725.....	5801	3792.....	5887
3594.....	5682	3659.....	5751	3726.....	5802	3793.....	5888
3595.....	5683	3660.....	5752	3727.....	5803	3794.....	5889
3596.....	5684	3661.....	5753	3728.....	5804	3795.....	5890
3597.....	5685	3662.....	5754	3729.....	5805	3796.....	5891
3598.....	5686	3663.....	5755	3730.....	5806	3797.....	5892
3599.....	5687	3664.....	5756	3731.....	5807	3798.....	5893
3600.....	5688	3665.....	5757	3732.....	5808	3799.....	5894
3601.....	5689	3666.....	5758	3733.....	5809	3800.....	5895
3602.....	5690	3667.....	5759	3734.....	5810	3801.....	5896
3603.....	5691	3668.....	5760	3735.....	6975	3802.....	5897
3604.....	5692	3669.....	5761	3736.....	5811	3803.....	5898
3605.....	5693	3670.....	5762	3737.....	5812	3804.....	5899
3606.....	5694	3671.....	5763	3738.....	5830	3805.....	5900
3607.....	5695	3672.....	5764	3739.....	5831	3806.....	5901
3608.....	5696	3673.....	5765	3740.....	5832	3807.....	5902
3609.....	5697	3674.....	5766	3741.....	5833	3808.....	5903
3610.....	5698	3675.....	5767	3742.....	5834	3809.....	5997
3611.....	5699	3676.....	5768	3743.....	5835	3810.....	5998
3612.....	5705	3677.....	5769	3744.....	5836	3811.....	5999
3613.....	5706	3678.....	5770	3745.....	5837	3812-3814.....	
3614.....	5707	3679.....	5771	3746.....	5838	Rep. Ch. 56,	
3615.....	5708	3680.....	5772	3747.....	5839	L. 1921	
3616.....	5709	3681.....	5773	3748.....	5840	3815.....	5916
3617.....	5710	3682.....	5774	3749.....	5841	3816.....	5917
3618.....	5711	3683.....	5775	3750.....	5842	3817.....	5904
3619.....	5712	3684.....	5776	3751.....	5843	3818.....	5905
3620.....	5713	3685.....	5777	3752.....	5844	3819.....	5906
3621.....	5714	3686.....	5778	3753.....	5845	3820.....	5907
3622.....	5715	3687.....	5779	3754.....	5846	3821.....	5913
3623.....	5716	3688.....	5780	3755.....	5847	3822.....	5952
3624.....	5717	3689.....	5781	3756.....	5848	3823.....	5909
3625.....	5718	3690.....	5782	3757.....	5849	3824.....	5970
3626.....	5719	3691.....	5783	3758.....	5850	3825.....	5908
3627.....	5720	3692.....	5784	3759.....	5851	3826-3828.....	
3628.....	5721	3693.....	5785	3760.....	5852	Rep. Ch. 56,	
3629.....	5722	3694.....	5786	3761.....	5856	L. 1921	
3630.....	5723	3695.....	5787	3762.....	5857	3829.....	5930
3631.....	5724	3696.....	5788	3763.....	5858	3830.....	5935
3632.....	5725	3697.....	5789	3764.....	5859	3831.....	5931
3633.....	5726	3698.....	5790	3765.....	5860	3832.....	5932
3634.....	5727	3699.....	5791	3766.....	5861	3833.....	5933
3635.....	5728	3700.....	5792	3767.....	5862	3834.....	5936
3636.....	5729	3701.....	5793	3768.....	5863	3835.....	5937
3637.....	5730	3702.....	5794	3769.....	5864	3836.....	5938
3638.....	5731	3703.....	5795	3770.....	5865	3837.....	5939
3639.....	5732	3704.....	5796	3771.....	5866	3838.....	5940
3640.....	5733	3705.....	5797	3772.....	5867	3839.....	5945
3641.....	5734	3706.....	5798	3773.....	5868	3840.....	5946
3642.....	5735	3707.....	5799	3774.....	5869	3841.....	5947
3643.....	5736	3708.....	5813	3775.....	5870	3842.....	5948
3644.....	5737	3709.....	5814	3776.....	5871	3843.....	5949
3645.....	5738	3710.....	5815	3777.....	5872	3844.....	5942
3646.....	5739	3711.....	5816	3778.....	5873	3845.....	5950
3647.....	5740	3712.....	5817	3779.....	5874	3846.....	5951
3648.....	5741	3713.....	5818	3780.....	5875	3847.....	5943
3649.....	5742	3714.....	5819	3781.....	5876	3848.....	5944
3650.....	5743	3715.....	5820	3782.....	5877	3849.....	
3651.....	5744	3716.....	5821	3783.....	5878	Rep. Ch. 56,	
3652.....	5745	3717.....	5822	3784.....	5879	L. 1921	
3653.....	5746	3718.....	5823	3785.....	5880	3850.....	6003
3654.....	5747	3719.....	5824	3786.....	5881	3851.....	5967
3655.....	5748	3720.....	5825	3787.....	5882	3852.....	5941

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
3853.....	5966	4016.....	6111	4073.....		4135.....	6278
3854.....	5953	4017.....	6112	Rep. Ch. 67,		4136.....	6279
3855.....	5954	4018.....	6113	L. 1911		4137.....	6280
3856.....	5955	4019.....	6114	4074.....	6158	4138.....	6281
3857.....	5956	4020.....	6115	4075.....	6159	4139.....	6282
3858.....	5957	4021.....	6116	4076.....	6170	4140.....	6283
3859.....	5958	4022.....	6117	4077.....	6171	4141-4143....	
3860.....	5959	4023.....	6118	4078.....	6172	Rep. Ch. 15,	
3861.....	5960	4024.....	6119	4079.....	6173	L. 1909	
3862.....	5961	4025.....	6120	4080.....	6174	4144.....	6284
3863.....	5962	4026.....	6121	4081.....	6175	4145.....	6285
3864.....	5963	4027.....	6122	4082.....	6176	4146.....	6293
3865.....	5964	4028.....	6123	4083.....	6177	4147.....	6294
3866.....	5965	4029.....	6124	4084.....	6178	4148.....	6295
3867.....	5973	4030.....	6125	4085.....	6179	4149.....	6296
3868.....	5974	4031.....	6160	4086.....	6180	4150.....	6297
3869.....	5975	4032.....	6161	4087.....	6181	4151.....	6298
3870.....	5976	4033.....	6162	4088.....	6182	4152.....	6299
3871.....	5977	4034.....	6163	4089.....	6183	4153.....	6300
3872.....	5978	4035.....		4090.....	6184	4154.....	6301
3873.....	5979	Rep. Ch. 109,		4091.....		4155.....	6302
3874.....	5980	L. 1921		Rep. Ch. 109,		4156.....	6303
3875.....	5981	4036.....	6164	L. 1921		4157.....	6304
3876.....	5982	4037.....	6165	4092.....	6185	4158.....	6237
3877.....	5983	4038.....	6166	4093.....	6186	4159.....	6238
3878.....	5984	4039.....	6167	4094.....	6187	4160.....	6239
3879.....	5985	4040.....	6168	4095.....	6188	4161.....	6240
3880.....	5986	4041.....	6169	4096.....	6189	4162.....	6241
3881.....	5987	4042.....	6128	4097.....	6190	4163.....	6242
3882.....	5988	4043.....	6129	4098.....	6191	4164.....	6243
3883.....	5989	4044.....	6130	4099.....	6192	4165.....	6244
3884.....	5990	4045.....	6131	4100.....	6193	4166.....	6245
3885.....	5991	4046.....	6132	4101.....	6194	4167.....	6246
3886.....	5992	4047.....	6133	4102.....	6195	4168.....	6247
3887.....	5993	4048.....	6134	4103.....	6196	4169.....	6248
3888.....		4049.....	6135	4104.....	6197	4170.....	6249
Rep. Ch. 109,		4050.....	6136	4105.....	6198	4171.....	6250
L. 1921		4051.....	6139	4106.....	6199	4172.....	6251
3889.....	5994	4052.....	6140	4107.....	6200	4173.....	6252
3890.....	5995	4053.....	6141	4108.....	6201	4174.....	6253
3891.....	5996	4054.....	6142	4109.....	6202	4175.....	6254
3892.....	6000	4055.....	6143	4110.....	6203	4176.....	6255
3893.....	6001	4056.....	6144	4111.....	6204	4177.....	6256
3894.....		4057.....	6145	4112.....	6205	4178-4189....	
Rep. Ch. 56,		4058.....	6146	4113.....	6257	Rep. Ch. 109,	
L. 1921		4059.....	6147	4114.....	6258	L. 1921	
3895.....	6002	4060.....	6148	4115.....	6259	4190.....	6355
3896.....	6650	4061.....		4116.....	6260	4191.....	6356
3897.....	6004	Rep. Ch. 220,		4117.....	6261	4192.....	6357
3898.....	6005	L. 1919		4118.....	6262	4193.....	6358
3899.....	6006	4062.....	6149	4119.....	6263	4194.....	6359
3900.....	6007	4063.....	6151	4120.....	6264	4195.....	6360
3901.....		4064.....	6152	4121.....	6266	4196.....	6361
Rep. Ch. 80,		4065.....		4122.....	6267	4197.....	6362
L. 1921		Rep. Ch. 13,		4123.....	6268	4198.....	6363
3902.....	6008	L. 1909		4124.....	6269	4199.....	6364
3903.....	6009	4066.....	6153	4125.....	6270	4200.....	6365
3904.....	6013	4067.....	6154	4126.....	6271	4201.....	6366
3905.....	6010	4068.....		4127.....	6272	4202.....	6367
3906.....	6011	Rep. Ch. 13,		4128-4129....		4203.....	6368
3907.....		L. 1909		Rep. Ch. 13,		4204.....	6369
Rep. Ch. 56,		4069.....	6155	L. 1909		4205.....	6370
L. 1921		4070.....	6156	4130.....	6273	4206.....	6371
3908.....	6012	4071.....		4131.....	6274	4207.....	6372
3909-4015....		Rep. Ch. 13,		4132.....	6275	4208.....	6373
Rep. Ch. 89,		L. 1909		4133.....	6276	4209.....	6374
L. 1915		4072.....	6157	4134.....	6277	4210.....	6375

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
4211.....	6376	4278.....	6511	4343.....	6582	4413.....	6651
4212.....	6377	4279.....	6512	4344.....	6583	4414.....	6652
4213.....	6378	4280.....	6513	4345-4348....		4415.....	6653
4214.....	6379	4281.....	6514	Rep. Ch. 67,		4416.....	6654
4215.....	6380	4282.....	6515	L. 1917		4417.....	6655
4216.....	6381	4283.....	6516	4349.....	6586	4418.....	6656
4217.....	6382	4284.....	6517	4350.....	6587	4419.....	6657
4218.....	6383	4285.....	6518	4351.....	6588	4420.....	6658
4219.....	6384	4286..... Rep.		4352.....	6589	4421.....	6663
4220.....	6385	See 18 Mont.		4353.....	6590	4422.....	6664
4221.....	6450	167		4354.....	6591	4423.....	6665
4222.....	6451	4287.....	6519	4355.....	6592	4424.....	6666
4223.....	6452	4288.....	6520	4356.....	6593	4425.....	6667
4224.....	6453	4289.....	6521	4357.....	6594	4426.....	6668
4225.....	6454	4290.....	6522	4358.....	6595	4427.....	6669
4226.....	6455	4291.....	6523	4359.....	6596	4428.....	6670
4227.....	6456	4292.....	6524	4360.....	6597	4429.....	6671
4228.....	6457	4293.....	6525	4361.....	6598	4430.....	6672
4229.....	6458	4294.....	6526	4362.....	6599	4431.....	6673
4230.....	6462	4295.....	6527	4363.....	3779	4432.....	6674
4231.....	6463	4296.....	6528	4364.....	3780	4433.....	6675
4232.....	6464	4297.....	6529	4365.....	3781	4434.....	6676
4233.....	6465	4298.....	6530	4366.....	3782	4435.....	6677
4234.....	6466	4299.....	6531	4367.....	3783	4436.....	6678
4235.....	6467	4300.....	6532	4368.....	3784	4437.....	6679
4236.....	6468	4301.....	6533	4369.....	3785	4438.....	6680
4237.....	6469	4302.....	6534	4370.....	3789	4439.....	6681
4238.....	6470	4303.....	6535	4371.....	3790	4440.....	6682
4239.....	6471	4304.....	6536	4372.....	3791	4441.....	6683
4240.....	6472	4305.....	6537	4373.....	3792	4442.....	6684
4241.....	6473	4306.....	6538	4374.....	3793	4443.....	6685
4242.....	6474	4307.....	6539	4375.....	3794	4444.....	6686
4243.....	6475	4308.....	6540	4376.....	3795	4445.....	6687
4244.....	6476	4309.....	6541	4377.....	3796	4446.....	6688
4245.....	6477	4310.....	6551	4378.....	3797	4447.....	6689
4246.....	6478	4311.....	6542	4379.....	3798	4448.....	6690
4247.....	6479	4312.....	6543	4380.....	3799	4449.....	6691
4248.....	6480	4313.....	6544	4381.....	3800	4450.....	6692
4249.....	6481	4314.....	6545	4382.....	3801	4451.....	6693
4250.....	6482	4315.....	6546	4383.....	3802	4452.....	6694
4251.....	6483	4316.....	6547	4384.....	3803	4453.....	6695
4252.....	6484	4317.....	6548	4385.....	3804	4454.....	6696
4253.....	6485	4318.....	6552	4386.....	3805	4455.....	6697
4254.....	6486	4319.....	6553	4387.....	3806	4456.....	6698
4255.....	6487	4320.....	6554	4388.....	3807	4457.....	6699
4256.....	6488	4321.....	6555	4389.....	3808	4458.....	6700
4257.....	6489	4322.....	6556	4390.....	3809	4459.....	6701
4258.....	6490	4323.....	6557	4391.....	3810	4460.....	6702
4259.....	6491	4324.....	6558	4392.....	3811	4461.....	6703
4260.....	6492	4325.....	6559	4393.....	3812	4462.....	6704
4261.....	6493	4326.....	6560	4394.....	3813	4463.....	6705
4262.....	6494	4327.....	6561	4395.....	3814	4464.....	6706
4263.....	6495	4328.....	6562	4396.....	3815	4465.....	6707
4264.....	6496	4329.....	6563	4397.....	3816	4466.....	6708
4265.....	6497	4330.....	6564	4398.....	3817	4467.....	6709
4266.....	6498	4331.....	6565	4399.....	Omitted	4468.....	6710
4267.....	6499	4332.....	6566	4400.....	6645	4469.....	6711
4268.....	6500	4333.....	6567	4401.....	6646	4470.....	6712
4269.....	6501	4334.....	6568	4402.....	6647	4471.....	6713
4270.....	6502	4335.....	6569	4403.....	6648	4472.....	6714
4271.....	6503	4336.....	6570	4404.....	6649	4473.....	6715
4272.....	6504	4337.....	6571	4405-4408....		4474.....	6716
4273.....	6505	4338.....	6577	Rep. Ch. 109,		4475.....	6717
4274.....	6506	4339.....	6578	L. 1921		4476.....	6718
4275.....	6507	4340.....	6579	4409-4412....		4477.....	6719
4276.....	6509	4341.....	6580	Rep. Ch. 80,		4478.....	6720
4277.....	6510	4342.....	6581	L. 1921		4479.....	6721

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
4480.....	6722	4547.....	6794	4614.....	6861	4681.....	6932
4481.....	6723	4548.....	6795	4615.....	6862	4682.....	6933
4482.....	6724	4549.....	6796	4616.....	6863	4683.....	6934
4483.....	6725	4550.....	6797	4617.....	6864	4684.....	6935
4484.....	6726	4551.....	6798	4618.....	6865	4685.....	6936
4485.....	6727	4552.....	6799	4619.....	6866	4686.....	6937
4486.....	6728	4553.....	6800	4620.....	6867	4687.....	6938
4487.....	6729	4554.....	6801	4621.....	6868	4688.....	6939
4488.....	6730	4555.....	6802	4622.....	6869	4689.....	6940
4489.....	6731	4556.....	6803	4623.....	6870	4690.....	6941
4490.....	6732	4557.....	6804	4624.....	6871	4691.....	6942
4491.....	6733	4558.....	6805	4625.....	6872	4692.....	6943
4492.....	6734	4559.....	6806	4626.....	6873	4693.....	6944
4493.....	6735	4560.....	6807	4627.....	6874	4694.....	6945
4494.....	6736	4561.....	6808	4628.....	6875	4695.....	6946
4495.....	6737	4562.....	6809	4629.....	6876	4696.....	6947
4496.....	6738	4563.....	6810	4630.....	6877	4697.....	6948
4497.....	6739	4564.....	6811	4631.....	6878	4698.....	6949
4498.....	6740	4565.....	6812	4632.....	6879	4699.....	6950
4499.....	6741	4566.....	6813	4633.....	6880	4700.....	6951
4500.....	6742	4567.....	6814	4634.....	6881	4701.....	6952
4501.....	6743	4568.....	6815	4635.....	6882	4702.....	6953
4502.....	6744	4569.....	6816	4636.....	6883	4703.....	6954
4503.....	6745	4570.....	6817	4637.....	6884	4704.....	6955
4504.....	6746	4571.....	6818	4638.....	6885	4705.....	6956
4505.....	6747	4572.....	6819	4639.....	6886	4706.....	6957
4506.....	6748	4573.....	6820	4640.....	6887	4707.....	6958
4507.....	6749	4574.....	6821	4641.....	6888	4708.....	6959
4508.....	6750	4575.....	6822	4642.....	6889	4709.....	6960
4509.....	6751	4576.....	6823	4643.....	6890	4710.....	6961
4510.....	6752	4577.....	6824	4644.....	6891	4711.....	6962
4511.....	6753	4578.....	6825	4645.....	6892	4712.....	6963
4512.....	6754	4579.....	6826	4646.....	6893	4713.....	6964
4513.....	6755	4580.....	6827	4647.....	6894	4714.....	6965
4514.....	6756	4581.....	6828	4648.....	6895	4715.....	6966
4515.....	6757	4582.....	6829	4649.....	6896	4716.....	6967
4516.....	6758	4583.....	6830	4650.....	6898	4717.....	6968
4517.....	6759	4584.....	6831	4651.....	6899	4718.....	6969
4518.....	6760	4585.....	6832	4652.....	6900	4719.....	6970
4519.....	6761	4586.....	6833	4653.....	6901	4720.....	6971
4520.....	6762	4587.....	6834	4654.....	6905	4721.....	6972
4521.....	6763	4588.....	6835	4655.....	6906	4722.....	6973
4522.....	6764	4589.....	6836	4656.....	6907	4723.....	6974
4523.....	6765	4590.....	6837	4657.....	6908	4724.....	6976
4524.....	6766	4591.....	6838	4658.....	6909	4725.....	6977
4525.....	6767	4592.....	6839	4659.....	6910	4726.....	6980
4526.....	6768	4593.....	6840	4660.....	6911	4727.....	6981
4527.....	6769	4594.....	6841	4661.....	6912	4728.....	6982
4528.....	6770	4595.....	6842	4662.....	6913	4729.....	6983
4529.....	6771	4596.....	6843	4663.....	6914	4730.....	6984
4530.....	6772	4597.....	6844	4664.....	6915	4731.....	6985
4531.....	6773	4598.....	6845	4665.....	6916	4732.....	6986
4532.....	6774	4599.....	6846	4666.....	6917	4733.....	6987
4533.....	6775	4600.....	6847	4667.....	6918	4734.....	6988
4534.....	6776	4601.....	6848	4668.....	6919	4735.....	6989
4535.....	6777	4602.....	6849	4669.....	6920	4736.....	6990
4536.....	6783	4603.....	6850	4670.....	6921	4737.....	6991
4537.....	6784	4604.....	6851	4671.....	6922	4738.....	6992
4538.....	6785	4605.....	6852	4672.....	6923	4739.....	6993
4539.....	6786	4606.....	6853	4673.....	6924	4740.....	6994
4540.....	6787	4607.....	6854	4674.....	6925	4741.....	6995
4541.....	6788	4608.....	6855	4675.....	6926	4742.....	6996
4542.....	6789	4609.....	6856	4676.....	6927	4743.....	6997
4543.....	6790	4610.....	6857	4677.....	6928	4744.....	6998
4544.....	6791	4611.....	6858	4678.....	6929	4745.....	6999
4545.....	6792	4612.....	6859	4679.....	6930	4746.....	7000
4546.....	6793	4613.....	6860	4680.....	6931	4747.....	7001

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
4748.....	7002	4813.....	7066	4880.....		4952.....	7454
4749.....	7003	4814.....	7067	Rep. Ch. 228,		4953.....	7455
4750.....	7004	4815.....	7068	L. 1921		4954.....	7456
4751.....	7005	4816.....	7069	4881-4889....		4955.....	7457
4752.....	7006	4817.....	7070	Rep. Ch. 43,		4956.....	7458
4753.....	7007	4818.....	7071	L. 1911		4957.....	7459
4754.....	7008	4819.....	7072	4890.....	7151	4958.....	7460
4755.....	7009	4820.....	7073	4891.....	7134	4959.....	7461
4756.....	7010	4821.....	7074	4892.....	7394	4960.....	7462
4757.....	7011	4822.....	7075	4893.....	7395	4961.....	7463
4758.....	7012	4823.....	7076	4894.....	7396	4962.....	7464
4759.....	7013	4824.....	7077	4895.....	7397	4963.....	7465
4760.....	7014	4825.....	7078	4896.....	7398	4964.....	7466
4761.....		4826.....	7079	4897.....	7399	4965.....	7467
Rep. Ch. 109,		4827.....	7080	4898.....	7400	4966.....	7468
L. 1921		4828.....	7081	4899.....	7401	4967.....	7469
4762.....	7015	4829.....	7082	4900.....	7402	4968.....	7470
4763.....	7016	4830.....	7083	4901.....	7403	4969.....	7471
4764.....	7017	4831.....	7084	4902.....	7404	4970.....	7472
4765.....	7018	4832.....	7085	4903.....	7405	4971.....	7473
4766.....	7019	4833.....	7086	4904.....	7406	4972.....	7474
4767.....	7020	4834.....	7087	4905.....	7407	4973.....	7475
4768.....	7021	4835.....	7088	4906.....	7408	4974.....	7476
4769.....	7022	4836.....	7089	4907.....	7409	4975.....	7477
4770.....	7023	4837.....	7090	4908.....	7410	4976.....	7478
4771.....	7024	4838.....	7091	4909.....	7411	4977.....	7479
4772.....	7025	4839.....	7092	4910.....	7412	4978.....	7480
4773.....	7026	4840.....	7093	4911.....	7413	4979.....	7481
4774.....	7027	4841.....	7094	4912.....	7414	4980.....	7482
4775.....	7028	4842.....	7095	4913.....	7415	4981.....	7483
4776.....	7029	4843.....	7096	4914.....	7416	4982.....	7484
4777.....	7030	4844.....	7097	4915.....	7417	4983.....	7485
4778.....	7031	4845.....	7098	4916.....	7418	4984.....	7486
4779.....	7032	4846.....	7099	4917.....	7419	4985.....	7487
4780.....	7033	4847.....	7100	4918.....	7420	4986.....	7488
4781.....	7034	4848.....	7101	4919.....	7421	4987.....	7489
4782.....	7035	4849.....	7102	4920.....	7422	4988.....	7490
4783.....	7036	4850.....	7103	4921.....	7423	4989.....	7491
4784.....	7037	4851.....	7104	4922.....	7424	4990.....	7492
4785.....	7038	4852.....	7105	4923.....	7425	4991.....	7493
4786.....	7039	4853.....	7106	4924.....	7426	4992.....	7494
4787.....	7040	4854.....	7107	4925.....	7427	4993.....	7495
4788.....	7041	4855.....	7108	4926.....	7428	4994.....	7496
4789.....	7042	4856.....	7109	4927.....	7429	4995.....	7497
4790.....	7043	4857.....	7110	4928.....	7430	4996.....	7498
4791.....	7044	4858.....	7111	4929.....	7431	4997.....	7499
4792.....	7045	4859.....	7112	4930.....	7432	4998.....	7500
4793.....	7046	4860.....	7113	4931.....	7433	4999.....	7501
4794.....	7047	4861.....	7114	4932.....	7434	5000.....	7502
4795.....	7048	4862.....	7115	4933.....	7435	5001.....	7503
4796.....	7049	4863.....	7116	4934.....	7436	5002.....	7504
4797.....	7050	4864.....	7117	4935.....	7437	5003.....	7505
4798.....	7051	4865.....	7118	4936.....	7438	5004.....	7506
4799.....	7052	4866.....		4937.....	7439	5005.....	7507
4800.....	7053	Rep. Ch. 228,		4938.....	7440	5006.....	7508
4801.....	7054	L. 1921		4939.....	7441	5007.....	7509
4802.....	7055	4867.....	7128	4940.....	7442	5008.....	7510
4803.....	7056	4868.....	7129	4941.....	7443	5009.....	7511
4804.....	7057	4869.....	7130	4942.....	7444	5010.....	7512
4805.....	7058	4870.....	7131	4943.....	7445	5011.....	7513
4806.....	7059	4871-4876....		4944.....	7446	5012.....	7514
4807.....	7060	Rep. Ch. 228,		4945.....	7447	5013.....	7515
4808.....	7061	L. 1921		4946.....	7448	5014.....	7516
4809.....	7062	4877.....	7132	4947.....	7449	5015.....	7517
4810.....	7063	4878.....		4948.....	7450	5016.....	7518
4811.....	7064	Rep. Ch. 228,		4949.....	7451	5017.....	7519
4812.....	7065	L. 1921		4950.....	7452	5018.....	7520
		4879.....	7133	4951.....	7453	5019.....	7521

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
5020.....	7522	5088.....	7590	5155.....	7658	5222.....	7737
5021.....	7523	5089.....	7591	5156.....	7659	5223.....	7738
5022.....	7524	5090.....	7592	5157.....	7660	5224.....	7739
5023.....	7525	5091.....	7593	5158.....	7661	5225.....	7740
5024.....	7526	5092.....	7594	5159.....	7662	5226.....	7741
5025.....	7527	5093.....	7595	5160.....	7663	5227.....	7742
5026.....	7528	5094.....	7596	5161.....	7664	5228.....	7743
5027.....	7529	5094a.....	7597	5162.....	7665	5229.....	7744
5028.....	7530	5095.....	7598	5163.....	7666	5230.....	7745
5029.....	7531	5096.....	7599	5164.....	7673	5231.....	7746
5030.....	7532	5097.....	7600	5165.....	7674	5232.....	7747
5031.....	7533	5098.....	7601	5166.....	7675	5233.....	7748
5032.....	7534	5099.....	7602	5167.....	7676	5234.....	7749
5033.....	7535	5100.....	7603	5168.....	7677	5235.....	7750
5034.....	7536	5101.....	7604	5169-5170....		5236.....	7751
5035.....	7537	5102.....	7605	Rep. Ch. 98,		5237.....	7752
5036.....	7538	5103.....	7606	L. 1921		5238.....	7753
5037.....	7539	5104.....	7607	5171.....	7678	5239.....	7754
5038.....	7540	5105.....	7608	5172.....	7679	5240.....	7755
5039.....	7541	5106.....	7609	5173.....	7680	5241.....	7756
5040.....	7542	5107.....	7610	5174.....	7681	5242.....	7757
5041.....	7543	5108.....	7611	5175.....	7682	5243.....	7758
5042.....	7544	5109.....	7612	5176.....	7683	5244.....	7759
5043.....	7545	5110.....	7613	5177... 7684-11579		5245.....	7760
5044.....	7546	5111.....	7614	5178.....	7685	5246.....	7761
5045.....	7547	5112.....	7615	5179.....	7686	5247.....	7762
5046.....	7548	5113.....	7616	5180.....	7687	5248.....	7763
5047.....	7549	5114.....	7617	5181.....	7688	5249.....	7764
5048.....	7550	5115.....	7618	5182.....	7689	5250.....	7765
5049.....	7551	5116.....	7619	5183.....	7690	5251.....	7766
5050.....	7552	5117.....	7620	5184.....	7691	5252.....	7767
5051.....	7553	5118.....	7621	5185.....	7692	5253.....	7768
5052.....	7554	5119.....	7622	5186.....	7693	5254.....	7769
5053.....	7555	5120.....	7623	5187.....	7701	5255.....	7770
5054.....	7556	5121.....	7624	5188.....	7702	5256.....	7771
5055.....	7557	5122.....	7625	5189.....	7703	5257.....	7772
5056.....	7558	5123.....	7626	5190.....	7704	5258.....	7773
5057.....	7559	5124.....	7627	5191.....	7705	5259.....	7774
5058.....	7560	5125.....	7628	5192.....	7706	5260.....	7775
5059.....	7561	5126.....	7629	5193.....	7707	5261.....	7776
5060.....	7562	5127.....	7630	5194.....	7708	5262.....	7777
5061.....	7563	5128.....	7631	5195.....	7709	5263.....	7778
5062.....	7564	5129.....	7632	5196.....	7710	5264.....	7779
5063.....	7565	5130.....	7633	5197.....	7711	5265.....	7780
5064.....	7566	5131.....	7634	5198.....	7712	5266.....	7781
5065.....	7567	5132.....	7635	5199.....	7713	5267.....	7782
5066.....	7568	5133.....	7636	5200.....	7714	5268.....	7783
5067.....	7569	5134.....	7637	5201.....	7715	5269.....	7784
5068.....	7570	5135.....	7638	5202.....	7716	5270.....	7785
5069.....	7571	5136.....	7639	5203.....	7717	5271.....	7786
5070.....	7572	5137.....	7640	5204.....	7718	5272.....	7787
5071.....	7573	5138.....	7641	5205.....	7719	5273.....	7788
5072.....	7574	5139.....	7642	5206.....	7720	5274.....	7789
5073.....	7575	5140.....	7643	5207.....	7721	5275.....	7790
5074.....	7576	5141.....	7644	5208.....	7722	5276.....	7791
5075.....	7577	5142.....	7645	5209.....	7723	5277.....	7792
5076.....	7578	5143.....	7646	5210.....	7724	5278.....	7793
5077.....	7579	5144.....	7647	5211.....	7725	5279.....	7794
5078.....	7580	5145.....	7648	5212.....	7726	5280.....	7795
5079.....	7581	5146.....	7649	5213.....	7728	5281.....	7796
5080.....	7582	5147.....	7650	5214.....	7729	5282.....	7797
5081.....	7583	5148.....	7651	5215.....	7730	5283.....	7798
5082.....	7584	5149.....	7652	5216.....	7731	5284.....	7799
5083.....	7585	5150.....	7653	5217.....	7732	5285.....	7800
5084.....	7586	5151.....	7654	5218.....	7733	5286.....	7801
5085.....	7587	5152.....	7655	5219.....	7734	5287.....	7802
5086.....	7588	5153.....	7656	5220.....	7735	5288.....	7803
5087.....	7589	5154.....	7657	5221.....	7736	5289.....	7804

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
5290.....	7805	5359.....	7873	5427.....	7942	5495.....	8010
5291.....	7806	5360.....	7874	5428.....	7943	5496.....	8011
5292.....	7807	5361.....	7875	5429.....	7944	5497.....	8012
5293.....	7808	5362.....	7876	5430.....	7945	5498.....	8013
5294.....	7809	5363.....	7877	5431.....	7946	5499.....	8014
5295.....	7810	5364.....	7878	5432.....	7947	5500.....	8015
5296.....	7811	5365.....	7879	5433.....	7948	5501.....	8016
5297.....	7812	5366.....	7880	5434.....	7949	5502.....	8017
5298.....	7813	5367.....	7881	5435.....	7950	5503.....	8018
5299.....	7814	5368.....	7882	5436.....	7951	5504.....	8019
5300.....	7815	5369.....	7883	5437.....	7952	5505.....	8020
5301.....	7816	5370.....	7884	5438.....	7953	5506.....	8021
5302.....	7817	5371.....	7885	5439.....	7954	5507.....	8022
5303.....	7818	5372.....	7886	5440.....	7955	5508.....	8023
5304.....	7819	5373.....	7887	5441.....	7956	5509.....	8024
5305.....	7820	5374.....	7888	5442.....	7957	5510.....	8025
5306.....	7821	5375.....	7889	5443.....	7958	5511.....	8026
5307.....	7822	5376.....	7890	5444.....	7959	5512.....	8027
5308.....	7823	5377.....	7891	5445.....	7960	5513.....	8028
5309.....	7824	5378.....	7892	5446.....	7961	5514.....	8029
5310.....	7825	5379.....	7893	5447.....	7962	5515.....	8030
5311.....	7826	5380.....	7894	5448.....	7963	5516.....	8031
5312.....	7827	5381.....	7895	5449.....	7964	5517.....	8032
5314.....	7828	5382.....	7896	5450.....	7965	5518.....	8033
5315.....	7829	5383.....	7897	5451.....	7966	5519.....	8034
5316.....	7830	5384.....	7898	5452.....	7967	5520.....	8035
5317.....	7831	5385.....	7899	5453.....	7968	5521.....	8036
5318.....	7832	5386.....	7900	5454.....	7969	5522.....	8037
5319.....	7833	5387.....	7901	5455.....	7970	5523.....	8038
5320.....	7834	5388.....	7902	5456.....	7971	5524.....	8039
5321.....	7835	5389.....	7903	5457.....	7972	5525.....	8040
5322.....	7836	5390.....	7904	5458.....	7973	5526.....	8041
5323.....	7837	5391.....	7905	5459.....	7974	5527.....	8042
5324.....	7838	5392.....	7906	5460.....	7975	5528.....	8043
5325.....	7839	5393.....	7908	5461.....	7976	5529.....	8044
5326.....	7840	5394.....	7909	5462.....	7977	5530.....	8045
5327.....	7841	5395.....	7910	5463.....	7978	5531.....	8046
5328.....	7842	5396.....	7911	5464.....	7979	5532.....	8047
5329.....	7843	5397.....	7912	5465.....	7980	5533.....	8048
5330.....	7844	5398.....	7913	5466.....	7981	5534.....	8049
5331.....	7845	5399.....	7914	5467.....	7982	5535.....	8050
5332.....	7846	5400.....	7915	5468.....	7983	5536.....	8051
5333.....	7847	5401.....	7916	5469.....	7984	5537.....	8052
5334.....	7848	5402.....	7917	5470.....	7985	5538.....	8053
5335.....	7849	5403.....	7918	5471.....	7986	5539.....	8054
5336.....	7850	5404.....	7919	5472.....	7987	5540.....	8055
5337.....	7851	5405.....	7920	5473.....	7988	5541.....	8056
5338.....	7852	5406.....	7921	5474.....	7989	5542.....	8057
5339.....	7853	5407.....	7922	5475.....	7990	5543.....	8058
5340.....	7854	5408.....	7923	5476.....	7991	5544.....	8059
5341.....	7855	5409.....	7924	5477.....	7992	5545.....	8060
5342.....	7856	5410.....	7925	5478.....	7993	5546.....	8061
5343.....	7857	5411.....	7926	5479.....	7994	5547.....	8062
5344.....	7858	5412.....	7927	5480.....	7995	5548.....	8063
5345.....	7859	5413.....	7928	5481.....	7996	5549.....	8064
5346.....	7860	5414.....	7929	5482.....	7997	5550.....	8065
5347.....	7861	5415.....	7930	5483.....	7998	5051.....	8066
5348.....	7862	5416.....	7931	5484.....	7999	5552.....	8067
5349.....	7863	5417.....	7932	5485.....	8000	5553.....	8068
5350.....	7864	5418.....	7933	5486.....	8001	5554.....	8069
5351.....	7865	5419.....	7934	5487.....	8002	5555.....	8070
5352.....	7866	5420.....	7935	5488.....	8003	5556.....	8071
5353.....	7867	5421.....	7936	5489.....	8004	5557.....	8072
5354.....	7868	5422.....	7937	5490.....	8005	5558.....	8073
5355.....	7869	5423.....	7938	5491.....	8006	5559.....	8074
5356.....	7870	5424.....	7939	5492.....	8007	5560.....	8075
5357.....	7871	5425.....	7940	5493.....	8008	5561.....	8076
5358.....	7872	5426.....	7941	5494.....	8009	5562.....	8077

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
5563.....	8078	5631.....	8146	5699.....	8214	5781.....	8299
5564.....	8079	5632.....	8147	5700.....	8215	5782.....	8300
5565.....	8080	5633.....	8148	5701.....	8216	5783.....	8301
5566.....	8081	5634.....	8149	5702.....	8217	5784.....	8302
5567.....	8082	5635.....	8150	5703.....	8218	5785.....	8303
5568.....	8083	5636.....	8151	5704.....	8219	5786.....	8304
5569.....	8084	5637.....	8152	5705.....	8220	5787.....	8305
5570.....	8085	5638.....	8153	5706.....	8221	5788.....	8306
5571.....	8086	5639.....	8154	5707.....	8222	5789.....	8307
5572.....	8087	5640.....	8155	5708.....	8223	5790.....	8308
5573.....	8088	5641.....	8156	5709.....	8224	5791.....	8309
5574.....	8089	5642.....	8157	5710.....	8225	5792.....	8310
5575.....	8090	5643.....	8158	5711.....	8226	5793.....	8311
5576.....	8091	5644.....	8159	5712.....	8227	5794.....	8312
5577.....	8092	5645.....	8160	5713.....	8228	5795.....	8313
5578.....	8093	5646.....	8161	5714.....	8229	5796.....	8314
5579.....	8094	5647.....	8162	5715.....	8230	5797.....	8315
5580.....	8095	5648.....	8163	5716.....	8231	5798.....	8316
5581.....	8096	5649.....	8164	5717.....	8232	5799.....	8317
5582.....	8097	5650.....	8165	5718.....	8233	5800.....	8378
5583.....	8098	5651.....	8166	5719.....	8234	5801.....	8379
5584.....	8099	5652.....	8167	5720.....	8235	5802.....	8380
5585.....	8100	5653.....	8168	5721.....	8236	5803.....	8381
5586.....	8101	5654.....	8169	5722.....	8237	5804.....	8382
5587.....	8102	5655.....	8170	5723.....	8238	5805.....	8383
5588.....	8103	5656.....	8171	5724.....	8239	5806.....	8387
5589.....	8104	5657.....	8172	5725.....	8240	5807.....	8388
5590.....	8105	5658.....	8173	5726.....	8241	5808.....	8389
5591.....	8106	5659.....	8174	5727.....	8242	5809.....	8390
5592.....	8107	5660.....	8175	5728.....	8243	5810.....	8391
5593.....	8108	5661.....	8176	5729.....	8244	5811.....	8392
5594.....	8109	5662.....	8177	5730.....	8245	5812.....	Omitted
5595.....	8110	5663.....	8178	5731.....	8246	5813.....	8393
5596.....	8111	5664.....	8179	5732.....	8247	5814.....	8394
5597.....	8112	5665.....	8180	5733.....	8248	5815.....	8395
5598.....	8113	5666.....	8181	5734.....	8249	5816.....	8336
5599.....	8114	5667.....	8182	5735.....	8250	5817.....	8337
5600.....	8115	5668.....	8183	5736.....	8251	5818.....	8338
5601.....	8116	5669.....	8184	5737.....	8252	5819.....	8318
5602.....	8117	5670.....	8185	5738.....	8253	5820.....	8319
5603.....	8118	5671.....	8186	5739.....	8254	5821.....	8320
5604.....	8119	5672.....	8187	5740.....	8255	5822.....	8321
5605.....	8120	5673.....	8188	5741.....	8256	5823.....	8322
5606.....	8121	5674.....	8189	5742.....	8257	5824.....	8323
5607.....	8122	5675.....	8190	5743.....	8258	5825.....	8324
5608.....	8123	5676.....	8191	5744.....	8259	5826.....	8325
5609.....	8124	5677.....	8192	5745.....	8260	5827.....	8326
5610.....	8125	5678.....	8193	5746.....	8261	5828.....	8327
5611.....	8126	5679.....	8194	5747.....	8262	5829.....	8328
5612.....	8127	5680.....	8195	5748.....	8263	5830.....	8329
5613.....	8128	5681.....	8196	5749.....	8264	5831.....	8330
5614.....	8129	5682.....	8197	5750.....	8265	5832.....	8331
5615.....	8130	5683.....	8198	5751.....	8266	5833.....	8332
5616.....	8131	5684.....	8199	5752.....	8268	5834.....	8333
5617.....	8132	5685.....	8200	5753.....	8269	5835.....	8334
5618.....	8133	5686.....	8201	5754.....	8270	5836.....	8335
5619.....	8134	5687.....	8202	5755.....	8271	5837.....	8336
5620.....	8135	5688.....	8203	5756.....	8273	5838.....	8397
5621.....	8136	5689.....	8204	5757-5773.....		5839.....	8398
5622.....	8137	5690.....	8205	Rep. Ch. 86,		5840.....	8399
5623.....	8138	5691.....	8206	L. 1913		5841.....	8400
5624.....	8139	5692.....	8207	5774.....	8292	5842.....	8401
5625.....	8140	5693.....	8208	5775.....	8293	5843.....	8402
5626.....	8141	5694.....	8209	5776.....	8294	5844.....	8403
5627.....	8142	5695.....	8210	5777.....	8295	5845.....	8404
5628.....	8143	5696.....	8211	5778.....	8296	5846.....	8405
5629.....	8144	5697.....	8212	5779.....	8297	5847.....	8406
5630.....	8145	5698.....	8213	5780.....	8298	5848.....	8407

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
5849.....	8408	5917.....	8476	5985.....	8544	Rep. Ch. 109, L. 1921	
5850.....	8409	5918.....	8477	5986.....	8545	6052.....	8670
5851.....	8410	5919.....	8478	5987.....	8546	6053.....	8671
5852.....	8411	5920.....	8479	5988.....	8547	6054.....	8672
5853.....	8412	5921.....	8480	5989.....	8548	6055.....	8673
5854.....	8413	5922.....	8481	5990.....	8549	6056.....	8674
5855.....	8414	5823.....	8482	5991.....	8550	6057.....	8675
5856.....	8415	5924.....	8483	5992.....	8551	6058.....	8676
5857.....	8416	5925.....	8484	5993.....	8552	6059.....	8677
5858.....	8417	5926.....	8485	5994.....	8553	6060.....	8678
5859.....	8418	5927.....	8486	5995.....	8554	6061.....	8679
5860.....	8419	5928.....	8487	5996.....	8555	6062.....	8680
5861.....	8420	5929.....	8488	5997.....	8556	6063.....	8681
5862.....	8421	5930.....	8489	5998.....	8557	6064.....	8682
5863.....	8422	5931.....	8490	5999.....	8558	6065.....	8683
5864.....	8423	5932.....	8491	6000.....	8559	6066.....	8684
5865.....	8424	5933.....	8492	6001.....	8560	6067.....	8685
5866.....	8425	5934.....	8493	6002.....	8561	6068.....	8686
5867.....	8426	5935.....	8494	6003.....	8562	6069.....	8687
5868.....	8427	5936.....	8495	6004.....	8563	6070.....	8688
5869.....	8428	5937.....	8496	6005.....	8564	6071.....	8689
5870.....	8429	5938.....	8497	6006.....	8565	6072.....	8690
5871.....	8430	5939.....	8498	6007.....	8566	6073.....	8691
5872.....	8431	5940.....	8499	6008.....	8567	6074.....	8692
5873.....	8432	5941.....	8500	6009.....	8568	6075.....	8693
5874.....	8433	5942.....	8501	6010.....	8569	6076.....	8694
5875.....	8434	5943.....	8502	6011.....	8570	6077.....	8695
5876.....	8435	5944.....	8503	6012.....	8571	6078.....	8696
5877.....	8436	5945.....	8504	6013.....	8572	6079.....	8697
5878.....	8437	5946.....	8505	6014.....	8573	6080.....	8698
5879.....	8438	5947.....	8506	6015.....	8574	6081.....	8699
5880.....	8439	5948.....	8507	6016.....	8575	6082.....	8700
5881.....	8440	5949.....	8508	6017.....	8576	6083.....	8701
5882.....	8441	5950.....	8509	6018.....	8577	6084.....	8702
5883.....	8442	5951.....	8510	6019.....	8578	6085.....	8703
5884.....	8443	5952.....	8511	6020.....	8579	6086.....	8704
5885.....	8444	5953.....	8512	6021.....	8580	6087.....	8705
5886.....	8445	5954.....	8513	6022.....	8581	6088.....	8706
5887.....	8446	5955.....	8514	6023.....	8582	6089.....	8707
5888.....	8447	5956.....	8515	6024.....	8583	6090.....	8708
5889.....	8448	5957.....	8516	6025.....	8584	6091.....	8709
5890.....	8449	5958.....	8517	6026.....	8585	6092.....	8710
5891.....	8450	5959.....	8518	6027.....	8586	6093.....	8711
5892.....	8451	5960.....	8519	6028.....	8587	6094.....	8712
5893.....	8452	5961.....	8520	6029.....	8588	6095.....	8713
5894.....	8453	5962.....	8521	6030.....	8589	6096.....	8714
5895.....	8454	5963.....	8522	6031.....	8590	6097.....	8715
5896.....	8455	5964.....	8523	6032.....	8591	6098.....	8716
5897.....	8456	5965.....	8524	6033.....	8592	6099.....	8717
5898.....	8457	5966.....	8525	6034.....	8593	6100.....	8718
5899.....	8458	5967.....	8526	6035.....	8594	6101.....	8719
5900.....	8459	5968.....	8527	6036.....	8595	6102.....	8720
5901.....	8460	5969.....	8528	6037.....	8596	6103.....	8721
5902.....	8461	5970.....	8529	6037a.....	8597	6104.....	8722
5903.....	8462	5971.....	8530	6038.....	8657	6105.....	8723
5904.....	8463	5972.....	8531	6039.....	8658	6106.....	8724
5905.....	8464	5973.....	8532	6040.....	8659	6107.....	8725
5906.....	8465	5974.....	8533	6041.....	8660	6108.....	8726
5907.....	8466	5975.....	8534	6042.....	8661	6109.....	8727
5908.....	8467	5976.....	8535	6043.....	8662	6110.....	8728
5909.....	8468	5977.....	8536	6044.....	8663	6111.....	8729
5910.....	8469	5978.....	8537	6045.....	8664	6112.....	8730
5911.....	8470	5979.....	8538	6046.....	8665	6113.....	8731
5912.....	8471	5980.....	8539	6047.....	8666	6114.....	8732
5913.....	8472	5981.....	8540	6048.....	8667	6115.....	8733
5914.....	8473	5982.....	8541	6049.....	8668	6116.....	8734
5915.....	8474	5983.....	8542	6050.....	8669	6117.....	8735
5916.....	8475	5984.....	8543	6051.....			

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
6118.....	8736	6186.....	8747	6245.....	8797	6320.....	8873
6119.....	8737	6187.....	8748	6246.....	8798	6321.....	8874
6120.....	9241	6188.....	8749	6247.....	8799	6322.....	8875
6121.....	9242	6189.....	8750	6248.....	8800	6323.....	8876
6122.....	8598	6190.....	8751	6249.....	8801	6324.....	8877
6123.....	8599	6191.....	8752	6250.....	8802	6325.....	8878
6124.....	8600	6192.....	8753	6251.....	8803	6326.....	8879
6125.....	8601	6193.....	8754	6252.....	8804	6327.....	8880
6126.....	8602	6194.....	8755	6253.....	8805	6328.....	8881
6127.....	8603	6185.....	8756	6254.....	8806	6329.....	8882
6128.....	8604	6196.....	8757	6255.....	8807	6330.....	8883
6129.....	8605	6197.....	8758	6256.....	8812	6331.....	8884
6130.....	8606	6198.....	8759	6257-6263.	Omitted	6332.....	8885
6131.....	8607	6199.....	8760	6264.....	8813	6333.....	8886
6132.....	8608	6200.....	8761	6265-6266.	Omitted	6334.....	8887
6133.....	8609	6201.....	8762	6267.....	8818	6335.....	8888
6134.....	8610	6202.....	8763	6268.....	8819	6336.....	8889
6135.....	8611	6203.....	8764	6269.....	8820	6337.....	8890
6136.....	8612	6204.....	8765	6270.....	8821	6338.....	8892
6137.....	8613	6205.....	8766	6271.....	8822	6339.....	8893
6138.....	8614	6206.....	8767	6272.....	8826	6340.....	8894
6139.....	8615	6207.....	8768	6273.....	8827	6341.....	8895
6140.....	8616	6208.....	8769	6274.....	8828	6342.....	8896
6141.....	8617	6209.....	8770	6275.....	8829	6343.....	8897
6142.....	8618	6210.....	8771	6276.....	8830	6344.....	8898
6143.....	8619	6211.....	8772	6277.....	8831	6345.....	8899
6144.....	8620	6212.....	8773	6278.....	8832	6346.....	8900
6145.....	8621	6213-6214....		6279.....	8833	6347.....	8901
6146.....	8622	Rep. Ch. 4,		6280.....	8834	6348.....	8902
6147.....	8623	L. 1921		6281.....	8835	6349.....	8903
6148.....	8624	6215.....	8774	6282.....	8836	6350.....	8904
6149.....	8625	6216.....	8775	6283.....	8837	6351.....	8905
6150.....	8626	6217-6218....		6284.....	8838	6352.....	8906
6151.....	8627	Rep. Ch. 5,		6285.....	8839	6353.....	8907
6152.....	8628	Ex. L. 1921		6286.....	8840	6354.....	8908
6153.....	8629	6219-6222....		6287.....	8841	6355.....	8909
6154.....	8630	Rep. Ch. 4,		6288.....	8842	6356.....	8910
6155....	8631-8635	L. 1921		6289.....	8843	6357.....	8911
6156.....	8636	6223.....	8776	6290.....	8847	6358.....	8912
6157.....	8637	6224.....		6291.....	8848	6359.....	8913
6158.....	8638	Rep. Ch. 4,		6292.....	8844	6360.....	8914
6159.....	8639	L. 1921		6293.....	8845	6361.....	8915
6160.....	8640	6225.....	8777	6294.....	8846	6362.....	8916
6161.....	8641	6226.....	8778	6295.....	8849	6363.....	8917
6162.....	8642	6227.....	8779	6296.....	8850	6364.....	8918
6163.....	8643	6228.....	8780	6297.....	8851	6365.....	8919
6164.....	8644	6229.....	8781	6298.....	8852	6366.....	8920
6165.....	8645	6230-6231....		6299.....	8853	6367.....	8921
6166.....	8646	Rep. Ch. 4,		6300.....	8854	6368.....	8922
6167.....	8647	L. 1921		6301.....	8855	6369.....	8923
6168.....	8648	6232.....	8782	6302.....	8856	6369a.....	
6169.....	8649	6233.....	4813a	6303.....	8857	(Ch. 35, L.	
6170.....	8650	6234.....		6304.....	8858	1919).....	8924
6171.....	8651	Rep. Ch. 4,		6305.....	8859	6370.....	8925
6172.....	8652	L. 1921		6306.....	8860	6371.....	8926
6173.....	8653	6235.....	Omitted	6307.....	8861	6372.....	8927
6174.....	8654	6236.....		6308.....	8862	6373.....	8928
6175.....	8655	Rep. Ch. 109,		6309.....	8863	6374.....	8929
6176.....	8656	L. 1921		6310.....	8864	6375.....	8930
6177.....	8738	6237.....	8783	6311.....	8865	6376.....	8931
6178.....	8739	6238.....	8784	6312.....	8823	6377.....	8932
6179.....	8740	6239.....	8785	6313.....	8866	6378.....	8933
6180.....	8741	6240.....	8786	6314.....	8867	6379.....	8934
6181.....	8742	6241.....	8787	6315.....	8868	6380.....	8935
6182.....	8743	6242.....	8788	6316.....	8869	6381.....	8936
6183.....	8744	6243.....	8789	6317.....	8870	6382.....	8937
6184.....	8745	6244.....	8790	6318.....	8871	6383.....	8938
6185.....	8746			6319.....	8872	6384.....	8939

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
6385.....	8940	6449.....	9033	6516.....	9108	6584.....	9182
6386.....	8941	6450.....	9034	6517.....	9109	6585.....	9183
6387.....	8942	6450a.....	9035	6518.....	9110	6586.....	9184
6388.....	8943	6451.....	9041	6519.....	9111	6587.....	9185
6389.....	8974	6452.....	9042	6520.....	9117	6588.....	9186
6390.....	8975	6453.....	9043	6521.....	9118	6589.....	9187
6391.....	8976	6454.....	9044	6522.....	9119	6590.....	9188
6392.....	8977	6455.....	9045	6523.....	9120	6591.....	9189
6393.....	8961	6456.....	9046	6524.....	9121	6592.....	9190
6394.....		6457.....	9047	6525.....	9122	6593.....	9191
Rep. Ch. 109,		6458.....	9048	6526.....	9123	6594.....	9192
L. 1921		6459.....	9049	6527.....	9124	6595.....	9193
6395.....	8978	6460.....	9050	6528.....	9125	6596.....	9194
6396.....	8979	6461.....	9051	6529.....	9126	6597.....	9195
6397.....	8980	6462.....	9052	6530.....	9127	6598.....	9196
6398.....	8981	6463.....	9053	6531.....	9128	6599.....	9197
6399.....	8982	6464.....	9054	6532.....	9129	6600.....	9198
6400.....	8983	6465.....	9055	6533.....	9130	6601.....	9199
6401.....	8984	6466.....	9056	6534.....	9131	6602.....	9200
6402.....	8985	6467.....	9057	6535.....	9132	6603.....	9201
6403.....	8986	6468.....	9058	6536.....	9133	6604.....	9202
6404.....	8987	6469.....	9059	6537.....	9134	6605.....	9203
6405.....	8988	6470.....	9060	6538.....	9135	6606.....	9204
6406.....	8989	6471.....	9061	6539.....	9136	6607.....	9205
6407.....	8990	6472.....	9062	6540.....	9137	6608.....	9206
6408.....	8991	6473.....	9063	6541.....	9138	6609.....	9207
6409.....	8962	6474.....	9064	6542.....	9139	6610.....	9208
6410.....	8963	6475.....	9065	6543.....	9140	6611.....	9209
6411.....	8964	6476.....	9066	6544.....	9141	6612.....	9210
6412.....	8965	6477.....	9067	6545.....	9142	6613.....	9211
6413.....	8966	6478.....	9068	6546.....	9143	6614.....	9212
6414.....	8967	6479.....	9069	6547.....	9144	6515.....	9213
6415.....	8968	6480.....	9070	6548.....	9145	6616.....	9214
6416.....	8969	6481.....	9071	6549.....	9146	6617.....	9215
6417.....	8970	6482.....	9072	6550.....	9147	6618.....	9216
6418.....	8971	6483.....	9073	6551.....	9148	6619.....	9217
6419.....	8972	6484.....	9074	6552.....	9149	6620.....	9218
6420.....	8973	6485.....	9075	6553.....	9150	6621.....	9219
6421.....	8992	6486.....	9076	6554.....	9152	6622.....	9220
6422.....	8993	6487.....	9077	6555.....	9153	6623.....	9221
6423.....	8994	6488.....	9078	6556.....	9154	6624.....	9222
6424.....		6489.....	9081	6557.....	9155	6625.....	9223
Rep. Ch. 4,		6490.....	9082	6558.....	9156	6626.....	9224
L. 1921		6491.....	9083	6559.....	9157	6627.....	9225
6425.....	9008	6492.....	9084	6560.....	9158	6628.....	9226
6426.....	9009	6493.....	9085	6561.....	9159	6629.....	9227
6427.....	9010	6494.....	9086	6562.....	9160	6630.....	9228
6428.....	9011	6495.....	9087	6563.....	9161	6631.....	9229
6429.....	9012	6496.....	9088	6564.....	9162	6632.....	9230
6430.....	9013	6497.....	9089	6565.....	9163	6633.....	9231
6431.....	9014	6498.....	9090	6566.....	9164	6634.....	9232
6432.....	9015	6499.....	9091	6567.....	9165	6635.....	9233
6433.....	9016	6500.....	9092	6568.....	9166	6636.....	9234
6434.....	9017	6501.....	9093	6569.....	9167	6637.....	9235
6435.....	9018	6502.....	9094	6570.....	9168	6638.....	9236
6436.....	9019	6503.....	9095	6571.....	9169	6639.....	9237
6437.....	9020	6504.....	9096	6572.....	9170	6640.....	9238
6438.....	9021	6505.....	9097	6573.....	9171	6641.....	9239
6439.....	9022	6506.....	9098	6574.....	9172	6642.....	9240
6440.....	9023	6507.....	9099	6575.....	9173	6643.....	9243
6441.....	9025	6508.....	9100	6576.....	9174	6644.....	9244
6442.....	9026	6509.....	9101	6577.....	9175	6645.....	9245
6443.....	9027	6510.....	9102	6578.....	9176	6646.....	9246
6444.....	9028	6511.....	9103	6579.....	9177	6647.....	9247
6445.....	9029	6512.....	9104	6580.....	9178	6648.....	9248
6446.....	9030	6513.....	9105	6581.....	9179	6649.....	9249
6447.....	9031	6514.....	9106	6582.....	9180	6650.....	9250
6448.....	9032	6515.....	9107	6583.....	9181	6651.....	9251

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
6652.....	9252	6720.....	9323	Rep. Ch. 225,		6853.....	9459
6653.....	9253	6721.....	9324	L. 1921		6854.....	9460
6654.....	9254	6722.....	9325	6787.....	9389	6855.....	9461
6655.....	9255	6723.....	9326	6788.....	9390	6856.....	9462
6656.....	9256	6724.....	9327	6789.....	9391	6857.....	9463
6657.....	9257	6725.....	9328	6790.....	9392	6858.....	9464
6658.....	9258	6726.....	9329	6791.....	9393	6859.....	9465
6659.....	9259	6727.....	9330	6792.....	9394	6860.....	9466
6660.....	9260	6728.....	9331	6793.....	9395	6861.....	9467
6661.....	9261	6729.....	9332	6794.....	9397	6862.....	9468
6662.....	9262	6730.....	9333	6795.....	9398	6863.....	9469
6663.....	9263	6731.....	9334	6796.....	9399	6864.....	9470
6664.....	9264	6732.....	9335	6797.....	9400	6865.....	9474
6665.....	9265	6733.....	9336	6798.....	9401	6866.....	9475
6666.....	9266	6734.....	9337	6799.....	9402	6867.....	9476
6667.....	9267	6735.....	9338	6800.....	9403	6868.....	9477
6668.....	9268	6736.....	9339	6801.....	9404	6869.....	9478
6669.....	9269	6737.....	9340	6802.....	9405	6870.....	9479
6670.....	9270	6738.....	9341	6803.....	9406	6871.....	9489
6671.....	9271	6739.....	9342	6804.....	9407	6872.....	9490
6672.....	9272	6740.....	9343	6805.....	9408	6873.....	9491
6673.....	9273	6741.....	9344	6806.....	9409	6874.....	9492
6674.....	9274	6742.....	9345	6807.....	9410	6875.....	9493
6675.....	9276	6743.....	9346	6808.....	9411	6876.....	9494
6676.....	9277	6744.....	9347	6809.....	9412	6877.....	9495
6677.....	9278	6745.....	9348	6810.....	9413	6878.....	9496
6678.....	9279	6746.....	9349	6811.....	9414	6879.....	9497
6679.....	9280	6747.....	9350	6812.....	9415	6880.....	9498
6680.....	9281	6748.....	9351	6813.....	9416	6881.....	9499
6681.....	9282	6749.....	9352	6814.....	9417	6882.....	9500
6682.....	9283	6750.....	9353	6815.....	9418	6883.....	9516
6683.....	9284	6751.....	9354	6816.....	9419	6884.....	9517
6684.....	9285	6752.....	9355	6817.....	9420	6885.....	9518
6685.....	9286	6753.....	9356	6818.....	9421	6886.....	9519
6686.....	9287	6754.....	9357	6819.....	9422	6887.....	9520
6687.....	9288	6755.....	9358	6820.....	9423	6888.....	9521
6688.....	9289	6756.....	9359	6821.....	9424	6889.....	9522
6689.....	9290	6757.....	9360	6822.....	9425	6890.....	9523
6690.....	9292	6758.....	9361	6823.....	9426	6891.....	9524
6691.....	9293	6759.....	9362	6824.....	9427	6892.....	9525
6692.....	9294	6760.....	9363	6825.....	9428	6893.....	9526
6693.....	9296	6761.....	9364	6826.....	9430	6894.....	9527
6694.....	9297	6762.....	9365	6827.....	9431	6895.....	9528
6695.....	9298	6763.....	9366	6828.....	9432	6896.....	9529
6696.....	9299	6764.....	9367	6829.....	9433	6897.....	9530
6697.....	9300	6765.....	9368	6830.....	9434	6898.....	9531
6698.....	9301	6766.....	9369	6831.....	9436	6899.....	9532
6699.....	9302	6767.....	9370	6832.....	9437	6900.....	9533
6700.....	9303	6768.....	9371	6833.....	9438	6901.....	9534
6701.....	9304	6769.....	9372	6834.....	9439	6902.....	9535
6702.....	9305	6770.....	9373	6835.....	9440	6903.....	9536
6703.....	9306	6771.....	9374	6836.....	9441	6904.....	9537
6704.....	9307	6772.....	9375	6837.....	9442	6905.....	9538
6705.....	9308	6773.....	9376	6838.....	9443	6906.....	9539
6706.....	9309	6774.....	9377	6839.....	9444	6907.....	9540
6707.....	9310	6775.....	9378	6840.....	9445	6908.....	9541
6708.....	9311	6776.....	9379	6841.....	9446	6909.....	9542
6709.....	9312	6777.....	9380	6842.....	9447	6910.....	9543
6710.....	9313	6778.....	9381	6843.....	9448	6911.....	9544
6711.....	9314	6779.....	9382	6844.....	9450	6912.....	9545
6712.....	9315	6780.....	9383	6845.....	9451	6913.....	9546
6713.....	9316	6781.....	9384	6846.....	9452	6914.....	9547
6714.....	9317	6782.....	9385	6847.....	9453	6915.....	9548
6715.....	9318	6783.....	9386	6848.....	9454	6916.....	9549
6716.....	9319	6784.....	9387	6849.....	9455	6917.....	9550
6717.....	9320	6785.....	9388	6850.....	9456	6918.....	9551
6718.....	9321	6786.....		6851.....	9457	6919.....	9552
6719.....	9322			6852.....	9458	6920.....	9553

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
6921.....	9554	6989.....	9622	7057.....	9690	7121.....	9754
6922.....	9555	6990.....	9623	7058.....	9691	7122.....	9755
6923.....	9556	6991.....	9624	7059.....	9692	7123.....	9756
6924.....	9557	6992.....	9625	7060.....	9693	7124.....	9757
6925.....	9558	6993.....	9626	7061.....	9694	7125.....	9758
6926.....	9559	6994.....	9627	7062.....	9695	7126.....	9759
6927.....	9560	6995.....	9628	7063.....	9696	7127.....	9760
6928.....	9561	6996.....	9629	7064.....	9697	7128.....	9761
6929.....	9562	6997.....	9630	7065.....	9698	7129.....	9762
6930.....	9563	6998.....	9631	7066.....	9699	7130.....	9763
6931.....	9564	6999.....	9632	7067.....	9700	7131.....	9764
6932.....	9565	7000.....	9633	7068.....	9701	7132.....	9765
6933.....	9566	7001.....	9634	7069.....	9702	7133.....	9766
6934.....	9567	7002.....	9635	7070.....	9703	7134.....	9767
6935.....	9568	7003.....	9636	7071.....	9704	7135.....	9768
6936.....	9569	7004.....	9637	7072.....	9705	7136.....	9769
6937.....	9570	7005.....	9638	7073.....	9706	7137.....	9770
6938.....	9571	7006.....	9639	7074.....	9707	7138.....	9771
6939.....	9572	7007.....	9640	7075.....	9708	7139.....	9772
6940.....	9573	7008.....	9641	7076.....	9709	7140.....	9773
6941.....	9574	7009.....	9642	7077.....	9710	7141.....	9774
6942.....	9575	7010.....	9643	7078.....	9711	7142.....	9775
6943.....	9576	7011.....	9644	7079.....	9712	7143.....	9776
6944.....	9577	7012.....	9645	7080.....	9713	7144.....	9777
6945.....	9578	7013.....	9646	7081.....	9714	7145.....	9778
6946.....	9579	7014.....	9647	7082.....	9715	7146.....	9779
6947.....	9580	7015.....	9648	7083.....	9716	7147.....	9780
6948.....	9581	7016.....	9649	7084.....	9717	7148.....	9781
6949.....	9582	7017.....	9650	7085.....	9718	7149.....	9782
6950.....	9583	7018.....	9651	7086.....	9719	7150.....	9783
6951.....	9584	7019.....	9652	7087.....	9720	7151.....	9784
6952.....	9585	7020.....	9653	7088.....	9721	7152.....	9785
6953.....	9586	7021.....	9654	7089.....	9722	7153.....	9786
6954.....	9587	7022.....	9655	7090.....	9723	7154.....	9787
6955.....	9588	7023.....	9656	7091.....	9724	7155.....	9788
6956.....	9589	7024.....	9657	7092.....	9725	7156.....	9789
6957.....	9590	7025.....	9658	7093.....	9726	7157.....	9790
6958.....	9591	7026.....	9659	7094.....	9727	7158.....	9791
6959.....	9592	7027.....	9660	7095.....	9728	7159.....	9792
6960.....	9593	7028.....	9661	7096.....	9729	7160.....	9793
6961.....	9594	7029.....	9662	7097.....	9730	7161.....	9794
6962.....	9595	7030.....	9663	7098.....	9731	7162.....	9795
6963.....	9596	7031.....	9664	7099.....	9732	7163.....	9796
6964.....	9597	7032.....	9665	7100.....	9733	7164.....	9797
6965.....	9598	7033.....	9666	7101.....	9734	7165.....	9798
6966.....	9599	7034.....	9667	7102.....	9735	7166.....	9799
6967.....	9600	7035.....	9668	7103.....	9736	7167.....	9800
6968.....	9601	7036.....	9669	7104.....	9737	7168.....	9801
6969.....	9602	7037.....	9670	7105.....	9738	7169.....	9802
6970.....	9603	7038.....	9671	7106.....	9739	7170.....	9803
6971.....	9604	7039.....	9672	7107.....	9740	7171.....	9804
6972.....	9605	7040.....	9673	7108.....	9741	7172.....	9805
6973.....	9606	7041.....	9674	7109.....	9742	7173.....	9806
6974.....	9607	7042.....	9675	7110.....	9743	7174.....	9807
6975.....	9608	7043.....	9676	7111.....	9744	7175.....	9808
6976.....	9609	7044.....	9677	7112.....		7176.....	9809
6977.....	9610	7045.....	9678	Rep. Ch. 225,		7177.....	9810
6978.....	9611	7046.....	9679	L. 1921		7178.....	9811
6979.....	9612	7047.....	9680	7113.....	9745	7179.....	9812
6980.....	9613	7048.....	9681	7114.....		7180.....	9813
6981.....	9614	7049.....	9682	Rep. Ch. 225,		7181.....	9814
6982.....	9615	7050.....	9683	L. 1921		7182.....	9815
6983.....	9616	7051.....	9684	7115.....	9746	7183.....	9816
6984.....	9617	7052.....	9685	7116.....	9747	7184.....	9817
6985.....	9618	7053.....	9686	7117.....	9748	7185.....	9818
6986.....	9619	7054.....	9687	7118.....	9751	7186.....	9819
6987.....	9620	7055.....	9688	7119.....	9752	7187.....	9820
6988.....	9621	7056.....	9689	7120.....	9753	7188.....	9821

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
7189.....	9822	7266.....	9884	7332.....	9935	7400.....	10035
7190.....	9823	7267.....	9885	7333.....	9936	7401.....	10036
7191.....	9824	7268.....	9886	7334.....	9937	7402.....	10037
7192.....	9825	7269.....	9887	7335.....	9938	7403.....	10038
7193.....	9826	7270.....	9888	7336.....	9939	7404.....	10039
7194.....	9828	7271.....	9889	7337.....	9940	7405.....	10040
7195.....	9827	7272.....	9890	7338.....	9941	7406.....	10041
7196.....	9829	7273.....	9891	7339.....	9942	7407.....	10042
7197.....	9830	7274.....	9892	7340.....	9943	7408.....	10043
7198.....	9831	7275.....	9893	7341.....	9944	7409.....	10044
7199.....	9832	7276.....	9894	7342.....	9945	7410.....	10045
7200.....	9834	7277.....	9895	7343.....	9946	7411.....	10046
7201.....	9835	7278.....	9896	7344.....	9947	7412.....	10047
7202.....	9836	7279.....	9897	7345.....	9948	7413.....	10048
7203.....	9837	7280.....	9898	7346.....	9949	7414.....	10049
7204.....	9838	7281.....	9899	7347.....	9950	7415.....	10050
7205.....	9839	7282.....	9900	7348.....	9951	7416.....	10051
7206.....	9840	7283.....	9901	7349.....	9952	7417.....	10052
7207.....	9841	7284.....	9902	7350.....	9953	7418.....	10053
7208.....	9842	7285.....	9903	7351.....	9954	7419.....	10054
7209.....	9843	7286.....	9904	7352.....	9955	7420.....	10055
7210.....	9844	7287.....	9905	7353.....	9956	7421.....	10056
7211.....	9845	7288.....	9906	7354.....	9957	7422.....	10057
7212.....	9846	7289.....		7355.....	9958	7423.....	10058
7213.....	9847	Rep. Ch. 109,		7356.....	9959	7424.....	10059
7214.....	9848	L. 1921		7357.....	9960	7425.....	10060
7215.....	9849	7290.....	8339	7358.....	9961	7426.....	10061
7216.....	9850	7291.....	8340	7359.....	9962	7427.....	10062
7217.....	9851	7292.....	8341	7360.....	9963	7428.....	10063
7218.....	9852	7293.....	8342	7361.....	9964	7429.....	10064
7219.....	9853	7294.....	8343	7362.....	9965	7430.....	10065
7220.....	9854	7295.....	8344	7363.....	9966	7431.....	10066
7221.....	9855	7296.....	8345	7364.....	9967	7432.....	10068
7222.....	9856	7297.....	8346	7365.....	9972	7433.....	10069
7223.....	9857	7298.....	8347	7366.....	9973	7434.....	10070
7224.....	9858	7299.....	8348	7367.....	9974	7435.....	10071
7225.....	9859	7300.....	8349	7368.....	9975	7436.....	10072
7226.....	9860	7301.....	8350	7369.....	9976	7437.....	10073
7227.....	9861	7302.....	8351	7370.....	9977	7438.....	10074
7228.....	9862	7303.....	8353	7371.....	9978	7439.....	10075
7229.....	9863	7304.....	8354	7372.....	9979	7440.....	10076
7230.....	9864	7305.....	8355	7373.....	9980	7441.....	10077
7231.....	9865	7306.....	8356	7374.....	9981	7442.....	10078
7232.....	9866	7307.....	8357	7375.....	9982	7443.....	10079
7233.....	9867	7308.....	8358	7376.....	9983	7444.....	10080
7234-7249....		7309.....	9908	7377.....	9984	7445.....	10081
Rep. Corrupt		7310.....	9909	7378.....	9985	7446.....	10082
Practices Act		7311.....	9910	7379.....	9986	7447.....	10083
(See Wilkin-		7312.....	9911	7380.....	9987	7448.....	10084
son v. La-		7313.....	9912	7381.....	9988	7449.....	10085
Combe, 59		7314.....	9913	7382.....	9989	7450.....	10086
Mont. 518)		7315.....	9914	7383.....	10018	7451.....	10087
7250.....	9868	7316.....	9915	7384.....	10019	7452.....	10088
7251.....	9869	7317.....	9916	7385.....	10020	7453.....	10089
7252.....	9870	7318.....	9917	7386.....	10021	7454.....	10090
7253.....	9871	7319.....	9918	7387.....	10022	7455.....	10091
7254.....	9872	7320.....	9919	7388.....	10023	7456.....	10092
7255.....	9873	7321.....	9920	7389.....	10024	7457.....	10093
7256.....	9874	7322.....	9921	7390.....	10025	7458.....	10094
7257.....	9875	7323.....	9922	7391.....	10026	7459.....	10095
7258.....	9876	7324.....	9923	7392.....	10027	7460.....	10096
7259.....	9877	7325.....	9924	7393.....	10028	7461.....	10097
7260.....	9878	7326.....	9925	7394.....	10029	7462.....	10098
7261.....	9879	7327.....	9926	7395.....	10030	7463.....	10099
7262.....	9880	7328.....	9927	7396.....	10031	7464.....	10100
7263.....	9881	7329.....	9928	7397.....	10032	7465.....	10101
7264.....	9882	7330.....	9933	7398.....	10033	7466.....	10102
7265.....	9883	7331.....	9934	7399.....	10034	7467.....	10103

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
7468.....	10104	7536.....	10185	7604.....	10258	7672.....	10326
7469.....	10105	7537.....	10186	7605.....	10259	7673.....	10327
7470.....	10107	7538.....	10187	7606.....	10260	7674.....	10328
7471.....	10108	7539.....	10188	7607.....	10261	7675.....	10329
7472.....	10109	7540.....	10189	7608.....	10262	7676.....	10330
7473.....	10110	7541.....	10190	7609.....	10263	7677.....	10331
7474.....	10111	7542.....	10191	7610.....	10264	7678.....	10334
7475.....	10112	7543.....	10192	7611.....	10265	7679.....	10335
7476.....	10113	7544.....	10193	7612.....	10266	7680.....	10336
7477.....	10114	7545.....	10194	7613.....	10267	7681.....	10337
7478.....	10115	7546.....	10195	7614.....	10268	7682.....	10338
7479.....	10116	7547.....	10196	7615.....	10269	7683.....	10339
7480.....	10117	7548.....	10197	7616.....	10270	7684.....	10340
7481.....	10118	7549.....	10198	7617.....	10271	7685.....	10341
7482.....	10119	7550.....	10199	7618.....	10272	7686.....	10342
7483.....	10067	7551.....	10200	7619.....	10273	7687.....	10343
7484.....	10120	7552.....	10201	7620.....	10274	7688.....	10344
7485.....	10121	7553.....	10202	7621.....	10275	7689.....	10345
7486.....	10122	7554.....	10203	7622.....	10276	7690.....	10346
7487.....	10123	7555.....	10204	7623.....	10277	7691.....	10347
7488.....	10124	7556.....	10205	7624.....	10278	7692.....	10348
7489.....	10125	7557.....	10206	7625.....	10279	7693.....	10349
7490.....	10126	7558.....	10207	7626.....	10280	7694.....	10350
7491.....	10127	7559.....	10208	7627.....	10281	7695.....	10351
7492.....	10128	7560.....	10209	7628.....	10282	7696.....	10332
7493.....	10129	7561.....	10210	7629.....	10283	7697.....	10333
7494.....	10130	7562.....	10211	7630.....	10284	7698.....	10352
7495.....	10131	7563.....	10212	7631.....	10285	7699.....	10353
7496.....	10132	7564.....	10213	7632.....	10286	7700.....	10354
7497.....	10133	7565.....	10214	7633.....	10287	7701.....	10355
7498.....	10134	7566.....	10215	7634.....	10288	7702.....	10356
7499.....	10135	7567.....	10216	7635.....	10289	7703.....	10357
7500.....	10136	7568.....	10217	7636.....	10290	7704.....	10358
7501.....	10137	7569.....	10218	7637.....	10291	7705.....	10359
7502.....	10138	7570.....	10219	7638.....	10292	7706.....	10360
7503.....	10139	7571.....	10220	7639.....	10293	7707.....	10361
7504.....	10140	7572.....	10221	7640.....	10294	7708.....	10362
7505.....	10141	7573.....	10222	7641.....	10295	7709.....	10363
7506.....	10142	7574.....	10223	7642.....	10296	7710.....	10364
7507.....	10143	7575.....	10224	7643.....	10297	7711.....	10365
7508.....	10144	7576.....	10225	7644.....	10298	7712.....	10366
7509.....	10145	7577.....	10226	7645.....	10299	7713.....	10367
7510.....	10146	7578.....	10227	7646.....	10300	7714.....	10368
7511.....	10147	7579.....	10228	7647.....	10301	7715.....	10369
7512.....	10148	7580.....	10229	7648.....	10302	7716.....	10370
7513.....	10149	7581.....	10230	7649.....	10303	7717.....	10371
7514.....	10150	7582.....	10231	7650.....	10304	7718.....	10372
7515.....	10151	7583.....	10232	7651.....	10305	7719.....	10373
7516.....	10152	7584.....	10233	7652.....	10306	7720.....	10374
7517.....	10153	7585.....	10234	7653.....	10307	7721.....	10375
7518.....	10154	7586.....	10235	7654.....	10308	7722.....	10376
7519.....	10155	7587.....	10236	7655.....	10309	7723.....	10106
7520.....	10156	7588.....	10237	7656.....	10310	7724-7751...	
7521.....	10157	7589.....	10238	7657.....	10311	Rep. Ch. 14,	
7522.....	10170	7590.....	10239	7658.....	10312	Ex. L. 1921	
7523.....	10171	7591.....	10240	7659.....	10313	7752.....	Omitted
7524.....	10172	7592.....	10241	7660.....	10314	7753.....	10401
7525.....	10173	7593.....	10242	7661.....	10315	7754.....	10402
7526.....	10174	7594.....	10243	7662.....	10316	7755.....	10403
7527.....	10175	7595.....	10244	7663.....	10317	7756.....	10404
7528.....	10176	7596.....	10245	7664.....	10318	7757.....	10405
7529.....	10177	7597.....	10246	7665.....	10319	7758.....	10406
7530.....	10178	7598.....	10247	7666.....	10320	7759.....	10407
7531.....	10179	7599.....	10248	7667.....	10321	7760.....	10408
7532.....	10180	7600.....	10249	7668.....	10322	7761.....	10409
7533.....	10182	7601..	10250-10255	7669.....	10323	7762.....	10410
7534.....	10183	7602.....	10256	7670.....	10324	7763.....	10411
7535.....	10184	7603.....	10257	7671.....	10325	7764.....	10412

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
7765.....	10413	7833.....	10469	7901.....	10545	7969.....	10613
7766.....	10414	7834.....	10470	7902.....	10546	7970.....	10614
7767.....	10415	7835.....	10471	7903.....	10547	7971.....	10615
7768.....	10416	7836.....	10472	7904.....	10548	7972.....	10616
7769.....	10417	7837.....	10473	7905.....	10549	7973.....	10617
7770.....	10418	7838.....	10474	7906.....	10550	7974.....	10618
7771.....	10419	7839.....	10475	7907.....	10551	7975.....	10619
7772.....	10420	7840.....	10476	7908.....	10552	7976.....	10620
7773.....	10421	7841.....	10477	7909.....	10553	7977.....	10621
7774.....	10422	7842.....	10478	7910.....	10554	7978.....	10622
7775.....	10423	7843.....	10479	7911.....	10555	7979.....	10623
7776.....	10424	7844.....	10488	7912.....	10556	7980.....	10624
7777.....	10425	7845.....	10489	7913.....	10557	7981.....	10625
7778.....	10426	7846.....	10490	7914.....	10558	7982.....	10626
7779.....	10427	7847.....	10491	7915.....	10559	7983.....	10627
7780.....	10428	7848.....	10492	7916.....	10560	7984.....	10628
7781.....	10429	7849.....	10493	7917.....	10561	7985.....	10629
7782.....	10430	7850.....	10494	7918.....	10562	7986.....	10630
7783.....	10431	7851.....	10495	7919.....	10563	7987.....	10631
7784.....	10432	7852.....	10496	7920.....	10564	7988.....	10632
7785.....	10433	7853.....	10497	7921.....	10565	7989.....	10633
7786.....	10434	7854.....	10498	7922.....	10566	7990.....	10634
7787.....	10435	7855.....	10499	7923.....	10567	7991.....	10635
7788.....	10436	7856.....	10500	7924.....	10568	7992.....	10636
7789.....	10437	7857.....	10501	7925.....	10569	7993.....	10637
7790.....	10438	7858.....	10502	7926.....	10570	7994.....	10638
7791.....	10439	7859.....	10503	7927.....	10571	7995.....	10639
7792.....	10440	7860.....	10504	7928.....	10572	7996.....	10640
7793.....	10441	7861.....	10505	7929.....	10573	7997.....	10641
7794.....	10442	7862.....	10506	7930.....	10574	7998.....	10642
7795.....	10443	7863.....	10507	7931.....	10575	7999.....	10643
7796.....	10444	7864.....	10508	7932.....	10576	8000.....	10644
7797.....	10445	7865.....	10509	7933.....	10577	8001.....	10645
7798.....	10446	7866.....	10510	7934.....	10578	8002.....	10646
7799.....	10447	7867.....	10511	7935.....	10579	8003.....	10647
7800.....	10448	7868.....	10512	7936.....	10580	8004.....	10648
7801.....	10449	7869.....	10513	7937.....	10581	8005.....	10649
7802.....	10450	7870.....	10514	7938.....	10582	8006.....	10650
7803.....	10451	7871.....	10515	7939.....	10583	8007.....	10651
7804.....	10452	7872.....	10516	7940.....	10584	8008.....	10652
7805.....	10453	7873.....	10517	7941.....	10585	8009.....	10653
7806.....	10454	7874.....	10518	7942.....	10586	8010.....	10654
7807.....	10455	7875.....	10519	7943.....	10587	8011.....	10655
7808.....	10456	7876.....	10520	7944.....	10588	8012.....	10656
7809.....	10457	7877.....	10521	7945.....	10589	8013.....	10657
7810.....	10458	7878.....	10522	7946.....	10590	8014.....	10658
7811.....	10459	7879.....	10523	7947.....	10591	8015.....	10659
7812.....	10460	7880.....	10524	7948.....	10592	8016.....	10660
7813.....	10461	7881.....	10525	7949.....	10593	8017.....	10661
7814.....	10462	7882.....	10526	7950.....	10594	8018.....	10662
7815.....	10463	7883.....	10527	7951.....	10595	8019.....	10663
7816.....	10464	7884.....	10528	7952.....	10596	8020.....	10664
7817.....	10158	7885.....	10529	7953.....	10597	8021.....	10665
7818.....	10159	7886.....	10530	7954.....	10598	8022.....	10666
7819.....	10160	7887.....	10531	7955.....	10599	8023.....	10667
7820.....	10161	7888.....	10532	7956.....	10600	8024.....	10668
7821.....	10162	7889.....	10533	7957.....	10601	8025.....	10669
7822.....	10163	7890.....	10534	7958.....	10602	8026.....	10670
7823.....	10164	7891.....	10535	7959.....	10603	8027.....	10671
7824.....	10165	7892.....	10536	7960.....	10604	8028.....	10672
7825.....	10166	7893.....	10537	7961.....	10605	8029.....	10673
7826.....	10167	7894.....	10538	7962.....	10606	8030.....	10674
7827.....	10168	7895.....	10539	7963.....	10607	8031.....	10675
7828.....	10169	7896.....	10540	7964.....	10608	8032.....	10676
7829.....	10465	7897.....	10541	7965.....	10609	8033.....	10677
7830.....	10466	7898.....	10542	7966.....	10610	8034.....	10678
7831.....	10467	7899.....	10543	7967.....	10611	8035.....	10679
7832.....	10468	7900.....	10544	7968.....	10612	8036.....	10680

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
8037.....	10681	8095.....		8179.....	10824	8245.....	10891
8038.....	10682	Rep. Ch. 4,		8180.....	10825	8246.....	10892
8039.....	10683	L. 1921		8181.....	10826	8247.....	10893
8040.....	10684	8096.....	10710	8182.....	10827	8248.....	10894
8041.....	10685	8097.....	10711	8183.....	10828	8249.....	10895
8042.....	10686	8098.....	10712	8184.....	10829	8250.....	10896
8043.....	10687	8099.....	10713	8185.....	10830	8251.....	10897
8044.....	10688	8100.....	10714	8186.....	10831	8252.....	10916
8045.....	10689	8101.....	10715	8187.....	10832	8253.....	10917
8046.....	10690	8102.....	10716	8188.....	10833	8254.....	10918
8047.....	10691	8103.....	10717	8189.....		8255.....	10919
8048.....	10692	8104.....	10718	Rep. Ch. 109,		8256.....	10920
8049.....	10693	8105.....	10719	L. 1921		8257.....	10921
8050.....	10694	8106.....	10720	8190.....	10834	8258.....	10922
8051.....	10695	8107.....	10721	8191.....	10835	8259.....	10923
8052.....	10696	8108.....	10722	8192.....	10836	8260.....	10929
8053.....	10697	8109.....	10723	8193.....	10837	8261.....	10930
8054.....	10698	8110.....	10724	8194.....	10838	8262.....	10931
8055.....	10699	8111.....	10725	8195.....	10839	8263.....	10932
8056.....	10700	8112.....	10726	8196.....	10840	8264.....	10933
8057.....	10701	8113.....	10727	8197.....	10841	8265.....	10934
8058.....	10702	8114.....	10728	8198.....	10842	8266.....	10935
8059.....		8115.....		8199.....	10843	8267.....	10936
Rep. Ch. 4,		Rep. Ch. 109,		8200.....	10844	8268.....	10937
L. 1921		L. 1921		8201.....	10845	8269.....	10938
8060.....	10703	8116.....	10729	8202.....	10846	8270.....	10939
8061.....		8117.....	10730	8203.....	10847	8271.....	10940
Rep. Ch. 4,		8118.....	10731	8204.....	10848	8272.....	10941
L. 1921		8119.....	10732	8205.....	10849	8273.....	10942
8062.....	10704	8120.....	10733	8206.....	10850	8274.....	10943
8063.....	10705	8121.....	10734	8207.....	10851	8275.....	10944
8064.....	10706	8122.....	10735	8208.....	10852	8276.....	10945
8065-8066...		8123.....	10736	8209.....	10853	8277.....	10946
Rep. Ch. 5,		8124.....	10747	8210.....	10854	8278.....	10947
Ex. L. 1921		8125.....	10748	8211.....	10855	8279.....	10948
8067.....	10707	8126.....	10749	8212.....	10856	8280.....	10949
8068-8073...		8127.....	10750	8213.....	10857	8281.....	10950
Rep. Ch. 4,		8128.....	10751	8214.....	10858	8282.....	10951
L. 1921		8129.....	10752	8215.....	10859	8283.....	10952
8074.....	90	8130.....	10753	8216.....	10860	8284.....	10898
8075.....	91	8131.....	10754	8217.....	10861	8285.....	
8076.....		8132.....	10755	8218.....	10862	Rep. Ch. 109,	
Rep. Ch. 4,		8133.....	10756	8219.....	10863	L. 1921	
L. 1921		8134.....	10757	8220.....	10864	8286.....	10899
8077.....	8995	8135.....	10758	8221.....	10865	8287.....	10900
8078.....	8996	8136.....	10759	8222.....	10866	8288.....	11571
8079.....	8997	8137.....	10760	8223.....	10867	8289.....	
8080.....	8998	8138.....	10761	8224.....	10868	Rep. Ch. 109,	
8081.....	8999	8139.....	10762	8225.....	10869	L. 1921	
8082.....	9000	8140.....	10763	8226.....	10870	8290.....	10953
8083.....	9001	8141.....	10764	8227.....	10871	8291.....	10954
8084.....	9002	8142.....	10765	8228.....	10872	8292.....	10955
8085.....	9003	8143.....	10766	8229.....	10873	8293.....	10957
8086.....	9004	8144.....	10767	8230.....	10874	8294.....	10958
8087.....	9005	8145.....	10768	8231.....	10875	8295.....	10959
8088.....	9006	8146-8168...		8232.....	10876	8296.....	10960
8089.....	9007	Rep. Ch. 109,		8233.....	10877	8297.....	10961
8090.....		L. 1921		8234.....	10878	8298.....	10962
Rep. Ch. 4,		8169.....	10769	8235.....	10879	8299.....	10963
L. 1921		8170-8172...		8236.....	10880	8300.....	10964
8091.....	Omitted	Rep. Ch. 109,		8237.....	10883	8301.....	10965
8092.....		L. 1921		8238.....	10884	8302.....	10966
Rep. Ch. 109,		8173.....	10770	8239.....	10885	8303.....	10967
L. 1921		8174.....	10771	8240.....	10886	8304.....	10968
8093.....	10708	8175.....	10772	8241.....	10887	8305.....	10969
8094.....	10709	8176.....	10821	8242.....	10888	8306.....	10970
		8177.....	10822	8243.....	10889	8307.....	10971
		8178.....	10823	8244.....	10890	8308.....	10972

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
8309.....	10973	Rep. Ch. 52, L. 1909		8435.....	11178	8518.....	11250
8310.....	10974			8436.....	11179	8519.....	11251
8311.....	10975	8369.....	11039	8437.....	11184	8520.....	11252
8312.....	10976	8370.....	11040	8438.....	11185	8521.....	11253
8313.....	10977	8371.....	11041	8439.....	11186	8522.....	11254
8314.....	10978	8372.....	11042	8440.....	11187	8523.....	11255
8315.....	10979	8373.....		8441.....	11193	8524.....	11256
8316.....	10980	Rep. Ch. 109, L. 1921		8442.....	11194	8525.....	11257
8317.....	10981			8443.....	11195	8526.....	11258
8318.....	10982	8374.....	11043	8444.....	11196	8527.....	11259
8319.....	10983	8375.....	11044	8445.....	11197	8528.....	11260
8320.....	10984	8376.....		8446.....	11198	8529.....	11261
8321.....	10985	Rep. Ch. 109, L. 1921		8447.....	11199	8530.....	11262
8322.....	10986			8448.....	11200	8531.....	11263
8323.....	10987	8377.....	11045	8449.....	11201	8532.....	11264
8324.....	10988	8378.....	11046	8450.....	11202	8533.....	11265
8325.....	10989	8379-8380...		8451.....	11203	8534.....	11266
8326.....	10990	Rep. Ch. 109, L. 1921		8452.....	11204	8535.....	11267
8327.....	10991			8453.....	11205	8536.....	11268
8328.....	10992	8381.....	11047	8454.....	11206	8537.....	11269
8329.....	10993	8382-8390...		8455.....	11207	8538.....	11270
8330.....	10994	Rep. Ch. 109, L. 1921		8456.....	11208	8539.....	11271
8331.....	10995			8457.....	11209	8540.....	11272
8332.....	10996	8391.....	11134	8458.....	11210	8541.....	11273
8333.....	10997	8392.....	11135	8459.....	11211	8542.....	11274
8334.....	10998	8393.....	11136	8460.....	11212	8543.....	11275
8335.....	10999	8394.....	11137	8461.....	11213	Rep. Ch. 109, L. 1921	
8336.....	11000	8395.....	11138	8462.....	11214	8545.....	2806
8337.....	11001	8396.....	11139	8463.....	11215	8546.....	2807
8338.....	11002	8397.....	11140	8464.....	11216	8547.....	2808
8339.....	11003	8398.....	11141	8465.....	11217	8548.....	2809
8340.....	11004	8399.....	11142	8466.....	11218	8549.....	2810
8341-8342...		8400.....	11143	8467.....	11219	8550.....	2811
Rep. Ch. 1, L. 1911		8401.....	11144	Rep. Ch. 30, L. 1913		8551.....	2812
8343.....	11006	8402.....	11145	8469.....	11220	8552.....	2813
8344.....	11007	8403.....	11146	8470.....	11221	8553.....	2814
8345.....		8404.....	11147	8471.....	11222	8554.....	2815
Rep. Ch. 77, L. 1917		8405.....	11148	8472.....	11223	Rep. Ch. 109, L. 1921	
8346.....	11020	8406.....	11149	8473.....	11224	8555-8556...	
8347.....	11021	8407.....	11150	8474.....	11225	8557.....	11276
8348.....	11022	8408.....	11151	8475.....	11226	8558.....	11277
8349.....	3102	8409.....	11152	8476.....	11227	Rep. Ch. 109, L. 1921	
8350.....		8410.....	11153	8477.....	11228	8559-8560...	
Rep. Ch. 109, L. 1921		8411.....	11154	8478.....	11229	Rep. Ch. 109, L. 1921	
8351.....	11023	8412.....	11155	8479.....	11230	8561.....	11278
8352.....	11024	8413.....	11156	8480.....	11231	8562.....	11279
8353.....	11025	8414.....	11157	8481.....	11232	8563.....	11280
8354.....	11026	8415.....	11158	8482.....	11233	8564.....	11284
8355.....	11027	8416.....	11159	8483.....	11234	8565.....	11285
8356.....	11028	8417.....	11160	8484.....	11235	8566.....	11286
8357.....	11029	8418.....	11161	8485.....	11236	8567.....	11287
8358.....		8419.....	11162	8486.....	11237	8568.....	11288
Rep. Ch. 109, L. 1921		8420.....	11163	8487.....	11238	8569.....	11289
8359.....	11030	8421.....	11164	8488.....	11239	8570.....	11290
8360.....	11031	8422.....	11165	8489.....	11240	8571.....	11291
8361.....	11032	8423.....	11166	8490.....	11241	8572.....	11292
8362.....	11033	8424.....	11167	8491.....	11242	8573.....	11293
8363.....	11034	8425.....	11168	8492.....	11243	8574.....	11294
8364.....	11035	8426.....	11169	8493-8512...		8575.....	11295
8365.....	11036	8427.....	11170	Rep. Ch. 109, L. 1921		8576.....	11296
8366.....	11037	8428.....	11171	8513.....	11245	8577.....	11297
8367.....	11038	8429.....	11172	8514.....	11246	8578.....	11298
8368.....		8430.....	11173	8515.....	11247	8579.....	11299
		8431.....	11174	8516.....	11248	8580.....	11300
		8432.....	11175	8517.....	11249	8581.....	11301
		8433.....	11176				
		8434.....	11177				

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
8582-8589...		8655.....	11381	8723.....	11451	8829.....	11525
Rep. Ch. 109,		8656.....	11382	8724.....	11452	8830.....	11526
L. 1921		8657.....	11383	8725.....	11453	8831.....	11527
8590.....	11314	8658.....	11384	8726.....	11454	8832.....	11528
8591.....	11315	8659.....	11385	8727.....	11455	8833.....	11529
8592.....	11318	8660.....	11386	8728.....	11456	8834.....	11530
8593.....	11319	8661.....	11387	8729.....	11457	8835.....	11531
8594.....	11320	8662.....	11388	8730.....	11458	8836.....	
8595.....	11321	8663.....	11389	8731.....	11459	Rep. Ch. 125,	
8596.....	11322	8664.....	11390	8732.....	11460	L. 1917	
8597.....	11323	8665.....	11391	8733.....	11461	8837.....	
8598.....	11324	8666.....	11392	8734.....	11462	Rep. Ch. 109,	
8599.....	11325	8667.....	11393	8735.....	11463	L. 1921	
8600.....	11326	8668.....	11394	8736.....	11464	8838.....	3393
8601.....	11327	8669.....	11395	8737.....	11465	8839.....	3394
8602.....	11328	8670.....	11396	8738.....	11466	8840.....	3395
8603.....	11329	8671.....	11397	8739.....	11467	8841.....	11532
8604.....	11330	8672.....	11398	8740.....	11468	8842.....	11533
8605.....	11331	8673.....	11399	8741.....	11469	8843.....	11534
8606.....	11332	8674.....	11400	8742.....	11470	8844.....	11535
8607.....	11333	8675.....	11401	8743.....	11471	8845.....	11536
8608.....	11334	8676.....	11402	8744.....	11472	8846.....	11537
8609.....	11335	8677.....	11403	8745.....	11473	8847.....	11538
8610.....	11336	8678.....	11404	8746.....	11474	8848.....	11539
8611.....	11337	8679.....	11405	8747.....	11475	8849.....	11540
8612.....	11338	8680.....	11406	8748.....	11476	8850.....	11541
8613.....	11339	8681.....	11407	8749.....	11477	8851.....	11542
8614.....	11340	8682.....	11409	8750.....	11481	8852.....	11543
8615.....	11341	8683.....	11410	8751.....	11483	8853.....	11544
8616.....	11342	8684.....	11411	8752.....	11484	8854.....	11545
8617.....	11343	8685.....	11412	8753.....	11485	8855.....	11546
8618.....	11344	8686.....	11413	8754.....	11486	8856.....	11547
8619.....	11345	8687.....	11414	8755.....	11487	8857.....	11548
8620.....	11346	8688.....	11415	8756.....	11488	8858.....	
8621.....	11347	8689.....	11416	8757.....	11489	Rep. Ch. 60,	
8622.....	11348	8690.....	11417	8758.....	11490	L. 1919	
8623.....	11349	8691.....	11418	8759.....	11491	8859.....	
8624.....	11350	8692.....	11419	8760.....	11492	Rep. Ch. 206,	
8625.....	11351	8693.....	11420	8761.....	11493	L. 1919	
8626.....	11352	8694.....	11421	8762.....	11494	8860.....	
8627.....	11353	8695.....	6290	8763.....	11495	Rep. Ch. 109,	
8628.....	11354	8696.....	6291	8764.....	11496	L. 1921	
8629.....	11355	8697.....	6292	8765.....	11497	8861.....	11552
8630.....	11356	8698.....	11426	8766.....	11498	8862.....	
8631.....	11357	8699.....	11427	8767.....	11499	Rep. Ch. 206,	
8632.....	11358	8700.....	11428	8768.....	11500	L. 1919	
8633.....	11359	8701.....	11429	8769.....	11502	8863.....	11553
8634.....	11360	8702.....	11430	8770.....	11503	8864.....	11554
8635.....	11361	8703.....	11431	8771.....	11504	8865.....	11555
8636.....	11362	8704.....	11432	8772.....	11506	8866.....	
8637.....	11363	8705.....	11433	8773.....	11507	Rep. Ch. 109,	
8638.....	11364	8706.....	11434	8774.....	11508	L. 1921	
8639.....	11365	8707.....	11435	8775.....	11509	8867.....	11556
8640.....	11366	8708.....	11436	8776.....	11510	8868.....	11557
8641.....	11367	8709.....	11437	8777.....	11511	8869.....	11559
8642.....	11368	8710.....	11438	8778.....	11512	8870.....	11560
8643.....	11369	8711.....	11439	8779.....	11513	8871-8874...	
8644.....	11370	8712.....	11440	8780.....	11514	Rep. Ch. 168,	
8645.....	11371	8713.....	11441	8781.....	11515	L. 1921	
8646.....	11372	8714.....	11442	8782-8822...		8875.....	11561
8647.....	11373	8715.....	11443	Rep. Ch. 109,		8876.....	11562
8648.....	11374	8716.....	11444	L. 1921		8877.....	11563
8649.....	11375	8717.....	11445	8823.....	11516	8878.....	11564
8650.....	11376	8718.....	11446	8824.....	11517	8879.....	11565
8651.....	11377	8719.....	11447	8825.....	11518	8880.....	11566
8652.....	11378	8720.....	11448	8826.....	11519	8881.....	11567
8653.....	11379	8721.....	11449	8827.....	11520	8882.....	11568
8654.....	11380	8722.....	11450	8828.....	11521	8883.....	11569

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
8884.....	11570	8952.....	11648	9020.....	11716	9088.....	11784
8885.....	11581	8953.....	11649	9021.....	11717	9089.....	11785
8886.....	11582	8954.....	11650	9022.....	11718	9090.....	11786
8887.....	11583	8955.....	11651	9023.....	11719	9091.....	11787
8888.....	11584	8956.....	11652	9024.....	11720	9092.....	11788
8889.....	11585	8957.....	11653	9025.....	11721	9093.....	11789
8890.....	11586	8958.....	11654	9026.....	11722	9094.....	11790
8891.....	11587	8959.....	11655	9027.....	11723	9095.....	11791
8892.....	11588	8960.....	11656	9028.....	11724	9096.....	11792
8893.....	11589	8961.....	11657	9029.....	11725	9097.....	11793
8894.....	11590	8962.....	11658	9030.....	11726	9098.....	11794
8895.....	11591	8963.....	11659	9031.....	11727	9099.....	11795
8896.....	11592	8964.....	11660	9032.....	11728	9100.....	11796
8897.....	11593	8965.....	11661	9033.....	11729	9101.....	11797
8898.....	11594	8966.....	11662	9034.....	11730	9102.....	11798
8899.....	11595	8967.....	11663	9035.....	11731	9103.....	11799
8900.....	11596	8968.....	11664	9036.....	11732	9104.....	11800
8901.....	11597	8969.....	11665	9037.....	11733	9105.....	11801
8902.....	11598	8970.....	11666	9038.....	11734	9106.....	11802
8903.....	11599	8971.....	11667	9039.....	11735	9107.....	11803
8904.....	11600	8972.....	11668	9040.....	11736	9108.....	11804
8905.....	11601	8973.....	11669	9041.....	11737	9109.....	11805
8906.....	11602	8974.....	11670	9042.....	11738	9110.....	11806
8907.....	11603	8975.....	11671	9043.....	11739	9111.....	11807
8908.....	11604	8976.....	11672	9044.....	11740	9112.....	11808
8909.....	11605	8977.....	11673	9045.....	11741	9113.....	11809
8910.....	11606	8978.....	11674	9046.....	11742	9114.....	11810
8911.....	11607	8979.....	11675	9047.....	11743	9115.....	11811
8912.....	11608	8980.....	11676	9048.....	11744	9116.....	11812
8913.....	11609	8981.....	11677	9049.....	11745	9117.....	11813
8914.....	11610	8982.....	11678	9050.....	11746	9118.....	11814
8915.....	11611	8983.....	11679	9051.....	11747	9119.....	11815
8916.....	11612	8984.....	11680	9052.....	11748	9120.....	11816
8917.....	11613	8985.....	11681	9053.....	11749	9121.....	11817
8918.....	11614	8986.....	11682	9054.....	11750	9122.....	11818
8919.....	11615	8987.....	11683	9055.....	11751	9123.....	11819
8920.....	11616	8988.....	11684	9056.....	11752	9124.....	11820
8921.....	11617	8989.....	11685	9057.....	11753	9125.....	11821
8922.....	11618	8990.....	11686	9058.....	11754	9126.....	11822
8923.....	11619	8991.....	11687	9059.....	11755	9127.....	11823
8924.....	11620	8992.....	11688	9060.....	11756	9128.....	11824
8925.....	11621	8993.....	11689	9061.....	11757	9129.....	11825
8926.....	11622	8994.....	11690	9062.....	11758	9130.....	11826
8927.....	11623	8995.....	11691	9063.....	11759	9131.....	11827
8928.....	11624	8996.....	11692	9064.....	11760	9132.....	11828
8929.....	11625	8997.....	11693	9065.....	11761	9133.....	11829
8930.....	11626	8998.....	11694	9066.....	11762	9134.....	11830
8931.....	11627	8999.....	11695	9067.....	11763	9135.....	11831
8932.....	11628	9000.....	11696	9068.....	11764	9136.....	11832
8933.....	11629	9001.....	11697	9069.....	11765	9137.....	11833
8934.....	11630	9002.....	11698	9070.....	11766	9138.....	11834
8935.....	11631	9003.....	11699	9071.....	11767	9139.....	11835
8936.....	11632	9004.....	11700	9072.....	11768	9140.....	11836
8937.....	11633	9005.....	11701	9073.....	11769	9141.....	11837
8938.....	11634	9006.....	11702	9074.....	11770	9142.....	11838
8939.....	11635	9007.....	11703	9075.....	11771	9143.....	11839
8940.....	11636	9008.....	11704	9076.....	11772	9144.....	11840
8941.....	11637	9009.....	11705	9077.....	11773	9145.....	11841
8942.....	11638	9010.....	11706	9078.....	11774	9146.....	11842
8943.....	11639	9011.....	11707	9079.....	11775	9147.....	11843
8944.....	11640	9012.....	11708	9080.....	11776	9148.....	11844
8945.....	11641	9013.....	11709	9081.....	11777	9149.....	11845
8946.....	11642	9014.....	11710	9082.....	11778	9150.....	11846
8947.....	11643	9015.....	11711	9083.....	11779	9151.....	11847
8948.....	11644	9016.....	11712	9084.....	11780	9152.....	11848
8949.....	11645	9017.....	11713	9085.....	11781	9153.....	11849
8950.....	11646	9018.....	11714	9086.....	11782	9154.....	11850
8951.....	11647	9019.....	11715	9087.....	11783	9155.....	11851

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
9156.....	11852	9224.....	11921	9292.....	11990	9358.....	12056
9157.....	11853	9225.....	11922	9293.....	11991	9359.....	12057
9158.....	11854	9226.....	11923	9294.....	11992	9360.....	12058
9159.....	11855	9227.....	11924	9295.....	11993	9361.....	12059
9160.....	11856	9228.....	11925	9296.....	11994	9362.....	12060
9161.....	11857	9229.....	11926	9297.....	11995	9363.....	12061
9162.....	11858	9230.....	11927	9298.....	11996	9364.....	12062
9163.....	11859	9231.....	11928	9299.....	11997	9365.....	12063
9164.....	11860	9232.....	11929	9300.....	11998	9366.....	12064
9165.....	11861	9233.....	11931	9301.....	11999	9367.....	12065
9166.....	11862	9234.....	11932	9302.....	12000	9368.....	12066
9167.....	11863	9235.....	11933	9303.....	12001	9369.....	12067
9168.....	11864	9236.....	11934	9304.....	12002	9370.....	12068
9169.....	11865	9237.....	11935	9305.....	12003	9371.....	12069
9170.....	11866	9238.....	11936	9306.....	12004	9372.....	12070
9171.....	11867	9239.....	11937	9307.....	12005	9373.....	12071
9172.....	11868	9240.....	11938	9308.....	12006	9374.....	12072
9173.....	11869	9241.....	11939	9309.....	12007	9375.....	12073
9174.....	11870	9242.....	11940	9310.....	12008	9376.....	12074
9175.....	11871	9243.....	11941	9311.....	12009	9377.....	12087
9176.....	11872	9244.....	11942	9312.....	12010	9378.....	12088
9177.....	11875	9245.....	11943	9313.....	12011	9379.....	12089
9178.....	11876	9246.....	11944	9314.....	12012	9380.....	12090
9179.....	11877	9247.....	11945	9315.....	12013	9381.....	12091
9180.....	11878	9248.....	11946	9316.....	12014	9382.....	12092
9181.....	11879	9249.....	11947	9317.....	12015	9383.....	12093
9182.....	11880	9250.....	11948	9318.....	12016	9384.....	12094
9183.....	11881	9251.....	11949	9319.....	12017	9385.....	12095
9184.....	11882	9252.....	11950	9320.....	12018	9386.....	12096
9185.....	11883	9253.....	11951	9321.....	12019	9387.....	12097
9186.....	11884	9254.....	11952	9322.....	12020	9388.....	12098
9187.....	11885	9255.....	11953	9323.....	12021	9389.....	12099
9188.....	11886	9256.....	11954	9324.....	12022	9390.....	12100
9189.....	11887	9257.....	11955	9325.....	12023	9391.....	12101
9190.....	11888	9258.....	11956	9326.....	12024	9392.....	12102
9191.....	11889	9259.....	11957	9327.....	12025	9393.....	12103
9192.....	11890	9260.....	11958	9328.....	12026	9394.....	12104
9193.....	11891	9261.....	11959	9329.....	12027	9395.....	12105
9194.....	11892	9262.....	11960	9330.....	12028	9396.....	12106
9195.....	11893	9263.....	11961	9331.....	12029	9397.....	12107
9196.....	11894	9264.....	11962	9332.....	12030	9398.....	12108
9197.....	11895	9265.....	11963	9333.....	12031	9399.....	12109
9198.....	11896	9266.....	11964	9334.....	12032	9400.....	12110
9199.....	11897	9267.....	11965	9335.....	12033	9401.....	12111
9200.....	11898	9268.....	11966	9336.....	12034	9402.....	12112
9201.....	11899	9269.....	11967	9337.....	12035	9403.....	12113
9202.....	11900	9270.....	11968	9338.....	12036	9404.....	12114
9203.....	11901	9271.....	11969	9339.....	12037	9405.....	12115
9204.....	11902	9272.....	11970	9340.....		9406.....	12116
9205.....	11903	9273.....	11971	Rep. Ch. 225, L. 1921		9407.....	12117
9206.....	11904	9274.....	11972	9341.....	12038	9408.....	12118
9207.....	11905	9275.....	11973	9342.....	12039	9409.....	12119
9208.....	11906	9276.....	11974	9343.....	12040	9410.....	12120
9209.....	11907	9277.....	11975	9344.....	12042	9411.....	12121
9210.....	11908	9278.....	11976	9345.....	12043	9412.....	12122
9211.....	11909	9279.....	11977	9346.....	12044	9413.....	12123
9212.....	11910	9280.....	11978	9347.....	12045	9414.....	12124
9213.....	11911	9281.....	11979	9348.....	12046	9415.....	12125
9214.....	11912	9282.....	11980	9349.....	12047	9416.....	12126
9215.....	11913	9283.....	11981	9350.....	12048	9417.....	12127
9216.....	11914	9284.....	11982	9351.....	12049	9418.....	12128
9217.....	11915	9285.....	11983	9352.....	12050	9419.....	12129
9218.....	11930	9286.....	11984	9353.....	12051	9420.....	12130
9219.....	11916	9287.....	11985	9354.....	12052	9421.....	12131
9220.....	11917	9288.....	11986	9355.....	12053	9422.....	12132
9221.....	11918	9289.....	11987	9356.....	12054	9423-9439..... Rep. Ch. 122, L. 1911	
9222.....	11919	9290.....	11988	9357.....	12055		
9223.....	11920	9291.....	11989				

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
9440.....	12133	9508.....	12201	9576.....	12267	9644.....	12362
9441.....	12134	9509.....	12202	9577.....	12268	9645.....	12363
9442.....	12135	9510.....	12203	9578.....	12269	9446.....	12364
9443.....	12136	9511.....	12204	9579.....	12270	9647.....	12365
9444.....	12137	9512.....	12205	9580.....	12271	9648.....	12366
9445.....	12138	9513.....	12206	9581.....	12272	9649.....	12367
9446.....	12139	9514.....	12207	9582.....	12273	9650.....	12368
9447.....	12140	9515.....	12208	9583.....	12274	9651.....	12369
9448.....	12141	9516.....	12209	9584.....	12302	9652.....	12370
9449.....	12142	9517.....	12210	9585.....	12303	9653.....	12371
9450.....	12143	9518.....	12211	9586.....	12304	9654.....	12372
9451.....	12144	9519.....	12212	9587.....	12305	9655.....	12373
9452.....	12145	9520.....	12213	9588.....	12306	9656.....	12374
9453.....	12146	9521.....	12214	9589.....	12307	9657.....	12375
9454.....	12147	9522.....	12215	9590.....	12308	9658.....	12376
9455.....	12148	9523.....	12216	9591.....	12309	9659.....	12377
9456.....	12149	9524.....	12217	9592.....	12310	9660.....	12378
9457.....	12150	9525.....	12218	9593.....	12311	9661.....	12379
9458.....	12151	9526.....	12219	9594.....	12312	9662.....	12380
9459.....	12152	9527.....	12220	9595.....	12313	9663.....	12381
9460.....	12153	9528.....	12221	9596.....	12314	9664.....	12382
9461.....	12154	9529.....	12222	9597.....	12315	9665.....	12383
9462.....	12155	9530.....	12223	9598.....	12316	9666.....	12384
9463.....	12156	9531.....	12224	9599.....	12317	9667.....	12385
9464.....	12157	9532.....	12225	9600.....	12318	9668.....	12386
9465.....	12158	9533.....	12226	9601.....	12319	9669.....	12387
9466.....	12159	9534.....	12227	9602.....	12320	9670.....	12388
9467.....	12160	9535.....	12228	9603.....	12321	9671.....	12389
9468.....	12161	9536.....	12229	9604.....	12322	9672.....	12390
9469.....	12162	9537.....	12230	9605.....	12323	9673.....	12391
9470.....	12163	9538.....	12231	9606.....	12324	9674.....	12392
9471.....	12164	9539.....	12232	9607.....	12325	9675.....	12393
9472.....	12165	9540.....	12233	9608.....	12326	9676.....	12394
9473.....	12166	9541.....	12234	9609.....	12327	9677.....	12395
9474.....	12167	9542.....	12235	9610.....	12328	9678.....	12396
9475.....	12168	9543.....	12236	9611.....	12329	9679.....	12397
9476.....	12169	9544.....	12237	9612.....	12330	9680.....	12398
9477.....	12170	9545.....	12238	9613.....	12331	9681.....	12399
9478.....	12171	9546.....	12239	9614.....	12332	9682.....	12400
9479.....	12172	9547.....	11873	9615.....	12333	9683.....	12401
9480.....	12173	9548.....	11874	9616.....	12334	9684.....	12402
9481.....	12174	9549.....	12240	9617.....	12335	9685.....	12403
9482.....	12175	9550.....	12241	9618.....	12336	9686.....	12404
9483.....	12176	9551.....	12242	9619.....	12337	9687.....	12405
9484.....	12177	9552.....	12243	9620.....	12338	9688.....	12406
9485.....	12178	9553.....	12244	9621.....	12339	9689.....	12407
9486.....	12179	9554.....	12245	9622.....	12340	9690.....	12408
9487.....	12180	9555.....	12246	9623.....	12341	9691.....	12409
9488.....	12181	9556.....	12247	9624.....	12342	9692.....	12410
9489.....	12182	9557.....	12248	9625.....	12343	9693.....	12411
9490.....	12183	9558.....	12249	9626.....	12344	9694.....	12412
9491.....	12184	9559.....	12250	9627.....	12345	9695.....	12413
9492.....	12185	9560.....	12251	9628.....	12346	9696.....	12414
9493.....	12186	9561.....	12252	9629.....	12347	9697.....	12415
9494.....	12187	9562.....	12253	9630.....	12348	9698.....	12416
9495.....	12188	9563.....	12254	9631.....	12349	9699.....	12417
9496.....	12189	9564.....	12255	9632.....	12350	9700.....	12418
9497.....	12190	9565.....	12256	9633.....	12351	9701.....	12419
9498.....	12191	9566.....	12257	9634.....	12352	9702.....	12420
9499.....	12192	9567.....	12258	9635.....	12353	9703.....	12421
9500.....	12193	9568.....	12259	9636.....	12354	9704.....	12422
9501.....	12194	9569.....	12260	9637.....	12355	9705.....	12423
9502.....	12195	9570.....	12261	9638.....	12356	9706.....	12424
9503.....	12196	9571.....	12262	9639.....	12357	9707.....	12425
9504.....	12197	9572.....	12263	9640.....	12358	9708.....	12426
9505.....	12198	9573.....	12264	9641.....	12359	9709.....	12427
9506.....	12199	9574.....	12265	9642.....	12360	9710.....	12428
9507.....	12200	9575.....	12266	9643.....	12361	9711.....	12429

TABLE OF CORRESPONDING SECTIONS.

1907	1921	1907	1921	1907	1921	1907	1921
9712.....	12430	9738.....	12457	9768.....	12477	9792-9793....	
9713.....	12431	9739.....	12458	9769.....	12478	Rep. Ch. 109,	
9714.....	12432	9740.....	12459	9770.....	12479	L. 1921	
9715.....	12433	9741.....	12460	9771.....	12480	9794.....	12496
9716.....	12434	9742.....	12461	9772.....	12481	9795.....	12497
9717.....	12435	9743.....	12462	9773.....	12482	9796.....	12498
9718.....	12436	9744.....	12463	9774.....	12483	9797.....	12499
9719.....	12437	9745.....	12464	9775.....	12484	9798.....	12500
9720.....	12438	9746-9747....		9776.....	12485	9799.....	12501
9721.....	12439	Rep. Ch. 109,		9777.....	12486	9800.....	12502
9722.....	12440	L. 1921		9778.....	12487	9801-9804....	
9723.....	12441	9748.....	12465	9779.....	12488	Rep. Ch. 109,	
9724.....	12442	9749-9756....		9780.....	12494	L. 1921	
9725.....	12443	Rep. Ch. 109,		9781-9783....		9805.....	12503
9726.....	12444	L. 1921		Rep. Ch. 109,		9806.....	12504
9727.....	12445	9757.....	12466	L. 1921		9807.....	12505
9728.....	12446	9758.....	12467	9784.....	Omitted	9808.....	12506
9729.....	12447	9759.....	12468	9785.....	Omitted	9809.....	12507
9730.....	12448	9760.....	12469	9786.....	Omitted	9810.....	12508
9731.....	12449	9761.....	12470	9787.....	Omitted	9811.....	12509
9732.....	12450	9762.....	12471	9788.....	Omitted	9812.....	12510
9733.....	12451	9763.....	12472	9789.....	Omitted	9813.....	12511
9734.....	12452	9764.....	12473	9790.....		9814.....	12512
9735.....	12453	9765.....	12474	Rep. Ch. 109,		9815.....	12513
9736.....	12454	9766.....	12475	L. 1921		9816.....	12514
9737.....	12455	9767.....	12476	9791.....	12495	9817.....	12515

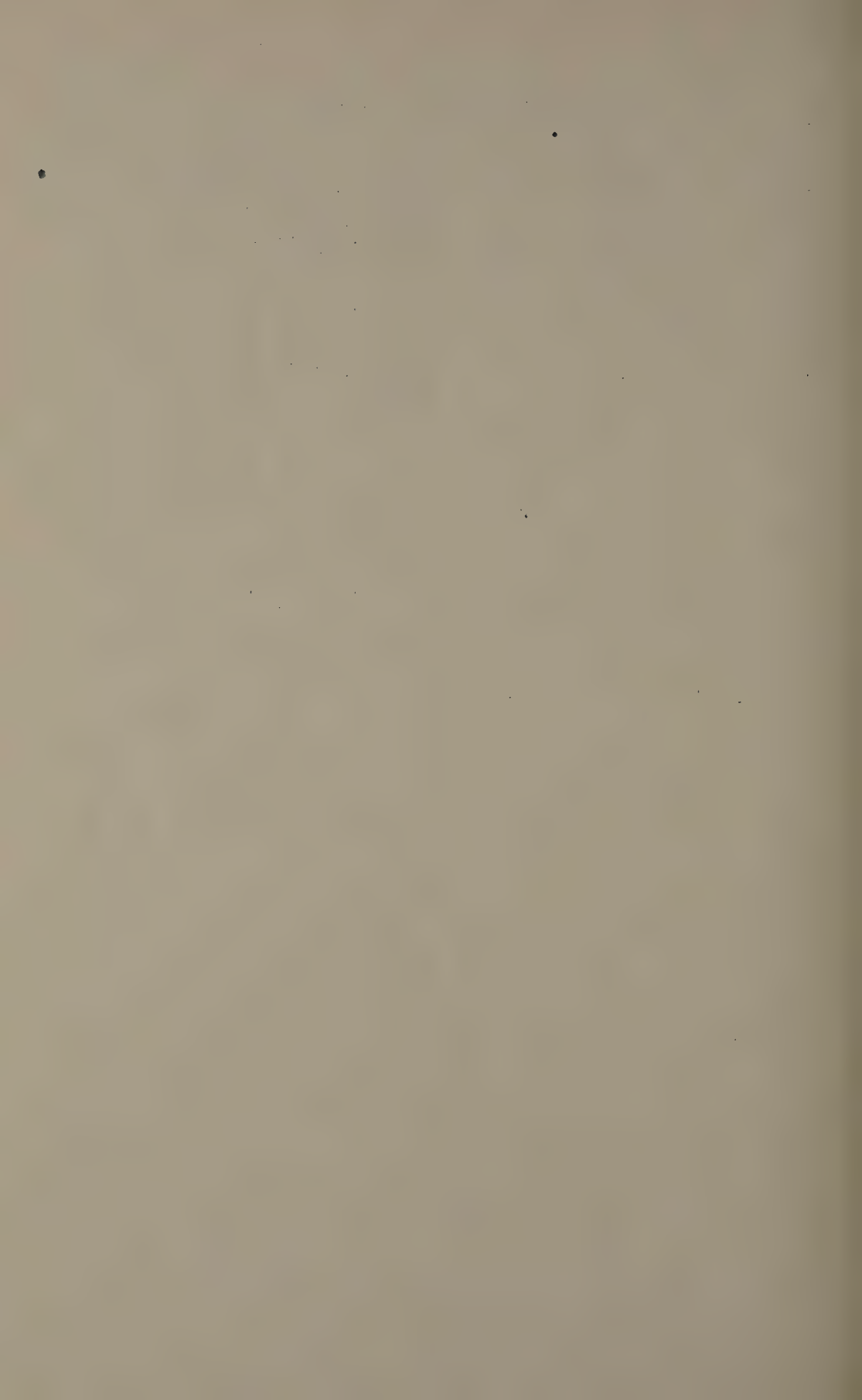


TABLE OF SESSION LAWS

This table shows the location in this Code of the Session Laws from 1909 to 1921, inclusive, and indicates the disposal made of all Session Acts which do not appear herein. Left-hand column indicates Session Acts; right-hand column, section numbers Rev. C. 1921.

1909

Ch.	Sec.	Code.	Ch.	Sec.	Code.
1		Omitted	48		2528
2		4183-4185	49		5700-5704
3		6381, 6383	50		2214
4		Omitted. See Sec. 9, Art. XII Const.	51		6288-6289
5		185	52		Omitted
6		759	53		4876-4877
7		11416	54		3436-3438
8		See 1576	55		5159-5160
9		See 1705	56		4961
10		See 11003	57		Rep. Ch. 80, L. 1915
11		See 10	58		11558
12	1	162	59		5011
	2	See 163	60		8318
	3	164	61		4483-4486
13		166-168	62		5867
14		6114, 6118	63		5554-5569
15		6286-6287	64		Rep. Ch. 120, L. 1911
16		Rep. Ch. 146, L. 1909	65		Rep. Ch. 77, L. 1921
17		52	66		See 10535
18		6609-6610	67		Omitted, Unconstitu- tional
19		159	68		4467
20		See 11180-11183	69		Rep. Ch. 120, L. 1911
21		3328	70	1-4	Rep. by implication, Ch. 216, L. 1921
22		Omitted. See 10		5-6	4470a-4470b
23		1532-1533, 1540		7-9	Rep. by implication, Ch. 216, L. 1921
24		Rep. Ch. 122, L. 1915		1	3418
25		See 6149		2	Rep. Ch. 109, L. 1921
26		Omitted			Rep. Ch. 206, L. 1919
27		Rep. Ch. 76, L. 1913	71		Rep. Ch. 76, L. 1913
28		Rep. Ch. 76, L. 1913	72		5002
29		4525-4526	73		3074-3075
30		1546	74		Superseded Ch. 124, L. 1917 (1923)
31		Rep. Ch. 76, L. 1913	75		Rep. Ch. 109, L. 1921
32		Rep. Ch. 76, L. 1913	76	1	390
33		4477-4481		2-3	6093
34		2410			Rep. Ch. 10, L. 1915
35		Rep. Ch. 76, L. 1913			8933
36	1	337			Rep. Ch. 109, L. 1921
	2	See 340			8482
37		See 6066			Rep. Ch. 76, L. 1913
38		1605-1609			796
39		Rep. Ch. 72, L. 1919			See 4873
40		6230-6233			305-309
41		6088-6092			Rep. Ch. 193, L. 1921
42		Omitted			Omitted
43		See 1955			See 4536
44		2038			Rep. Ch. 143, L. 1917
45		74-76			
46		Rep. Ch. 120, L. 1911			
47		9747			

TABLE OF SESSION LAWS.

1909

Ch.	Sec.	Code.	Ch.	Sec.	Code.
91		Omitted	137		1464
92		See 11180-11183	138		6550
93	1	3070	139		6206-6229
	2	4875	140		6003
94		5914-5915	141		Rep. Ch. 89, L. 1915
95		6602-6604	142		Rep. Ch. 173, L. 1917
96		11408	143		Rep. Ch. 72, L. 1913
97		10901-10903	144		Rep. Ch. 129, L. 1921
98		Rep. Ch. 76, L. 1913	145		Omitted
99	1-2	761-763	146	1-23	7166-7188
	3	See 773		24	7189-7194
100		Rep. Ch. 56, L. 1921		25-45	7195-7215
101		6454-6455		46-49	7232-7235
102		11522-11524		50	7237
103	1-2	See 385-386		51	Rep. Ch. 96, L. 1919
	3	See 388		52-56	7238-7242
	4	See 389		57-58	7249-7250
	5	See 394		59-65	7254-7260
	6-7	See 396-397		66-67	7262-7263
104		Rep. Ch. 193, L. 1921		68	7253
105		Rep. Ch. 67, L. 1917	147	1-3	1809-1811
106	1	See 5903		4-5	1818-1819
	2	5908		6	1823
	3	Rep. Ch. 56, L. 1921		7	1824
	4-5	5971-5972		8	1828
107		2672-2676		9-10	1830-1831
108		3357-3373		11	1833
109		6660-6661		12-17	1834-1839
110		Rep. Ch. 109, L. 1921		18	1956
111		Omitted		19	1840
112		Rep. Ch. 109, L. 1921		20-21	1841-1842
113		Unconstitutional.		22	1820
		Omitted		23	1822
114		8868		24	1825
115		3439-3441		25	1832
116		11550		26	1843
117		2470		27-34	1845-1852
118		Rep. Ch. 26, L. 1915.		35	1854
		See 175-178		36	1829
119		See 4875		37	1855
120		1922-1926		38-52	1856-1870
121		Rep. Ch. 72, L. 1913		53-55	1872-1874
122		4856-4857		56-57	1876-1877
123		See 2235		58-70	1878-1890
124		2805		71-72	1905-1906
125		2069-2075		73-85	1891-1903
126		11551		86	1910
127		Rep. Ch. 89, L. 1913		87	1910a
128	1-2	6488-6489		88-89	1911-1912
	3	6494		90	Rep. Ch. 78, L. 1921
	4	6496		91-93	1916-1918
	5	6498		94	1826
129		182		95	1871
130		Rep. Ch. 79, L. 1913		96	1817
131		12547-12552		97	1805
132	1-3	3107-3109		98	1812
	4	Omitted		99	1909
	5	3112		100	1921
	6	3113		101	1816
	7	3115		102	1815
133		Omitted. See 4330		103	1904
134		10010-10017		104	1919
135		2269-2270		105	4470
136	1-2	3827-3828		106	1927
	3	Rep. Ch. 105, L. 1913			
	4-7	3829-3832			

TABLE OF SESSION LAWS.

1911

Ch.	Sec.	Code.	Ch.	Sec.	Code.
1		11008-11016	60		Rep. Ch. 134, L. 1917
2	1-4	Rep. Ch. 109, L. 1921	61		Rep. Ch. 79, L. 1917
	5	See 3338	62		Rep. Ch. 89, L. 1913
	6-9	Rep. Ch. 109, L. 1921	63		Rep. Ch. 193, L. 1921
3		Omitted	64		Omitted
4		9754	65		Rep. Ch. 109, L. 1921
5		10976	66	1	2462
6		6234-6236		2	See 2649
7		9965-9966	67		Omitted
8		4855	68		6258
9		8910	69		5207-5208
10		Rep. Ch. 109, L. 1921	70		11310-11313
11		3186-3188	71		Rep. Ch. 76, L. 1913
12		6126	72		3432-3435
13		8940	73		Omitted. See 4305-
14		9258			4331
15		Rep. Sec. 57, Ch. 216, L. 1921	74		Omitted
16		Rep. Ch. 76, L. 1913	75		Omitted
17		Omitted	76		Omitted
18	1	Rep. Ch. 109, L. 1921	77		Omitted
	2-3	Omitted	78		1907-1908
19		5570	79		Omitted
20		1530	80		Rep. Ch. 3, Ex. L. 1921
21		3071	81		See 440
22		5348	82		Rep. Ch. 76, L. 1913
23		5354	83		Rep. Ch. 193, L. 1921
24		Rep. Ch. 76, L. 1913	84		1441
25		Omitted. See 4336	85		9262
26		2600-2614	86		9660
27		Rep. Ch. 144, L. 1921	87		See 3764
28		Rep. Ch. 193, L. 1921	88		4608
29		6605-6608	89		10923-10924
30	1-2	Rep. Ch. 131, L. 1917	90		Rep. Ch. 109, L. 1921
	3	See 4546	91		8824-8825
31		872-874	92		Rep. Ch. 143, L. 1917
32		11572-11573	93	1	218
33		22		2	219
34		Rep. Ch. 83, L. 1913	94		Rep. Ch. 191, L. 1919
35		See 4873	95		4637
36		4418-4420	96		Rep. Ch. 143, L. 1917
37		3442-3443	97		See 1998
38		See 44 and 45	98		See 5259
39		2517	99		6472
40		Rep. Ch. 76, L. 1913	100		See 3761-3762
41		Rep. Ch. 76, L. 1913	101		9968-9971
42		Rep. Ch. 76, L. 1913	102		Rep. Ch. 76, L. 1913
43		7136-7150	103		See 5194
44		862	104	1	6185
45		4526		2	6199
46		5110	105		Rep. Ch. 63, L. 1913
47	1-2	1580-1581	106		Rep. Ch. 193, L. 1921
	3-11	Rep. Ch. 216, L. 1921	107		5149-5158
48		See 6136 to 6138	108		See 6575
49		Rep. Ch. 127, L. 1915	109		4536, 4538
50		3407	110		2421-2428
51		See 1067	111		6095-6107
52		7594	112		Rep. Chs. 53 and 139, L. 1915
53		Rep. Ch. 9, Ex. L. 1921	113		Rep. Ch. 74, L. 1913, and Ch. 122, L. 1915
54		Omitted. See 4347	114		6136-6138
55		5024	115		5910-5912
56		4173-4182	116		Rep. Ch. 216, L. 1921
57		5366-5399	117		4917
58		Rep. Ch. 74, L. 1919	118	1	1828
59		Rep. Ch. 89, L. 1915			

TABLE OF SESSION LAWS.

1911

Ch.	Sec.	Code.	Ch.	Sec.	Code
118	2	1831	126		Omitted
	3	1820	127		340
	4	1872	128		1951-1953, 1955, 1960-1961
	5	1873			5125-5137
	6	1874	129		2578-2596
	7	1876	130		Rep. Ch. 76, L. 1913
	8	1877	131		See 4873
	9	1881	132	1	Rep. Ch. 109, L. 1921
119		1875		2	1507-1510
120	1-3	3447-3449	133		Omitted
	4	Rep. Ch. 109, L. 1921	134		4378-4389
	5-8	3450-3453	135		6572-6574
	9	Rep. Ch. 109, L. 1921	136		370-371
	10-18	3454-3462	137		Rep. Ch. 77, L. 1913
	19	Rep. Ch. 109, L. 1921	138		1445-1455
	20-24	3463-3467	139		6305-6338
	25	Rep. Ch. 109, L. 1921	140		2314-2315
	26-104	3468-3546	141		Omitted
121	1926	3616	142		Omitted
	1928	3622	143		Omitted
	1929	3623	144		Omitted
	1935	3626 Rest of Act Rep. Ch. 216, L. 1921	145		Rep. by Refer. Nov. 1912 and Ch. 191, L. 1919
122	1-14	12275-12288			Rep. Ch. 157, L. 1917
	15-26	12290-12301	146		11574-11576
123		1992-1995	147	1-3	2737-2739
124		1853	148	4-25	2741-2762
125		1511-1525			

1913

Ch.	Sec.	Code	Ch.	Sec.	Code
1		Omitted	30	7	2718
2		6910		8	2719
3		6915		9	See 2720
4		6932		10	2721
5		See 4454		11	2722
6		3351-3356		12	See 2723
7		10908-10911		13	See 2726
8		10904-10907		14	See 2727
9		3712		15	2728
10		6906		16	2729
12		3593-3602		17	11196
13		12516-12518	31		Rep. Ch. 173, L. 1917
14		Omitted	32		Rep. Ch. 97, L. 1915
15		2457	33		Rep. Ch. 109, L. 1921
16		11000	34		See 3763
17		6978-6979	35		Rep. Ch. 143, L. 1917
18		Rep. Ch. 148, L. 1919	36		7726-7727
19		Rep. Ch. 122, L. 1915	37		See 76
20		377	38		3708-3711
21		12078-12086	39		See 6149
22		128	40		Omitted
23		4934	41		See 10535
24		6127	42		Omitted. See 4319
25		Rep. Ch. 109, L. 1921	43		6638-6644
26		3822-3826	44		3064-3065
27		8267	45		8395
28		9242	46		Omitted. See 4330
29		5183-5193	47		Rep. Ch. 93, L. 1915
30	1	See 2712	48		9429
	2	2713	49		6897
	3	Rep. Ch. 109, L. 1921	50		3203-3216
	4	Rep. Ch. 109, L. 1921	51		129
	5	See 2714	52		3879-3913
	6	2715	53		6575-6576

TABLE OF SESSION LAWS.

1913

Ch.	Sec.	Code	Ch.	Sec.	Code
54		10325 and 10327	76	607	1061
55		Rep. Ch. 216, L. 1921		608	1039
56		Rep. Ch. 216, L. 1921		609	1055
57		1413-1417		610-612	1071-1073
58		Omitted		700-701	1133-1134
59		11005		800	1074
60		Omitted. See 4320		801-802	1075-1076
61		3631-3633		803	1077-1083
62		See 368		804-805	1084-1085
63	1-18	3859-3875		806	1087
	19-21	3876-3878		807	1060
64		See 3374		900	1088-1091
65		Rep. Ch. 148, L. 1919		901-904	1092-1095
66		105-106		905	1096-1099
67		917-925		906	1100
68		Rep. Ch. 157, L. 1917		907-908	1101-1102
69		Rep. Ch. 216, L. 1921		909	1103
70		Omitted		910	1104
71		Rep. Ch. 75, L. 1917		1000-1007	1105-1112
72		Superseded Ch. 141, L. 1915, and 172, L. 1917. See 1610- 1702		1100	1135
				1101	1136
73		Rep. Ch. 75, L. 1917		1102	Rep. Ch. 75, L. 1921
74		Superseded Ch. 122, L. 1915. See 553- 586		1103	1137
				1104	1138
				1105	1139
				1106-1107	1171-1172
				1108	1140
75		Rep. Ch. 67, L. 1915		1200-1205	1181-1186
76	100-106	830-836		1300	1062
	107	842-849		1400	1063-1067
	108	837-840		1401	1068-1070
	109	897		1500	981
	110-111	850-851		1501	982
	200	931		1502	983
	201	932-933		1503	984
	202	934-948		1600-1607	1173-1180
	203	949		1700	1255-1261
	204	Rep. Ch. 109, L. 1921		1800-1813	1187-1200
	300	950-954		1900-1913	1157-1170
	301	955		2000-2009	1201-1210
	302	956-975		2010	1213-1214
	303	980		2011	1215
	400-401	1020-1021		2012	1216
	402-403	1022-1023		2013	1217
	404	1024-1025		2014	1218
	405	1026-1032		2015	1224
	406	1033		2016	1225
	407	1034		2017	1226
	408	1035-1037		2018	1227
	500-501	985-986		2019	1228
	502	987-1004		2020	1229
	503	Rep. Ch. 247, L. 1921		2021	1230
	504	1005		2022-2024	1231-1233
	505	1006		2025-2028	Rep. Ch. 196, L. 1919
	506	1007		2029	1234
	507	1008-1014		2030	1235
	508	1015		2031	1236
	509-511	1016-1018		2032	1237
	512	1049-1052		2033	1238
	513	1019		2034-2038	1239-1243
	600-601	1053-1054		2100-2103	1262-1265
	602	1057		2104	1266-1271
	603	1058		2105-2108	1272-1275
	604	1056		2109	1276-1277
	605	1059		2110	1278
	606	Rep. Ch. 109, L. 1921		2111	1279

TABLE OF SESSION LAWS.

1913

Ch.	Sec.	Code	Ch.	Sec.	Code
76	2112	1280-1282	109		See 4487
	2113-2115	1283-1285	110		See 7208
	2200-2203	1323-1326	111		5019
	2204	Rep. Ch. 63, L. 1921	112	1	4725
	2205-2207	1327-1329		2	See 4867
77	1-5	Rep. Ch. 216, L. 1921	113		4265-4272
	6	2620	114		11577-11578
	7-8	Rep. Ch. 216, L. 1921	115		3819-3820
	9	2621	116		Rep. Ch. 109, L. 1921
	10-11	Rep. Ch. 216, L. 1921	117		Omitted
	12	2622	118		1958
	13-19	2623-2629	119	1	902
	20	Rep. Ch. 216, L. 1921		2-7	904-908
	21-22	2630-2631		6	Omitted
78		Rep. Ch. 170, L. 1917	120		2543-2551
79		Rep. Ch. 173, L. 1917	121	1	Superseded Ch. 124,
80		3066-3067			L. 1917. See 1928
81		2439		2-3	Rep. Ch. 109, L. 1921
82		3217-3228	122		10295
83		4235-4264	123		Rep. Ch. 157, L. 1917
84	1-3	215-217	124		Rep. Ch. 131, L. 1917
	4	220	125		4209-4211
85	1-23	4026-4050	126		See 3743
	24-26	4053-4055	127	1	7208
86		8275-8291		2	7242-7248
87		6459-6461	128		5397
88		4767 and 5034-5036	129		4638-4639
89	1-12	5225-5236	130		165
	13	5237	131		875-877
	14-32	5238-5256	132		9962
	33	Omitted	133		Rep. Ch. 53 and 139,
	34	5257			L. 1915
90		Rep. Ch. 157, L. 1917	134		Rep. Ch. 92, L. 1917
91		3409	135		Rep. Ch. 139, L. 1915
92	1-5	852-856			Corrupt
	6	858			Practices
93		1535-1536			Act, Initiative
94		11199		1	Measure 1912
95		2742-2753		2-7	10773
96		Rep. Ch. 193, L. 1921		8	Rep. Ch. 88, L. 1919
97		Rep. by Referendum		9	10774
		Nov., 1914		10-55	Rep. Ch. 88, L. 1919
98		2210			10775-10820
99		Rep. Ch. 109, L. 1921			Presidential
100		Rep. Ch. 109, L. 1921			Preference
101		5161			Primary, 1912
102		341-344			
103		4466			Primary Law,
104		Rep. Ch. 51, L. 1921			Initiative
105		3834-3841			Measure
106		Omitted		1-4	631-634
107		9442 and 9444		5-29	636-660
108		Superseded by Ch. 70,		30	Omitted
		L. 1917		31-32	661-662
				33-38	665-670

1915

Ch.	Sec.	Code	Ch.	Sec.	Code
1	1-2	62-63	4		10279
	3	74	5		9453
	4	See 78	6		8845
	5	77	7		8832
2	1	5367	8	1	4881
	2	5371		2	Rep. Ch. 222, L. 1919..
	3	5394			See 4873
3		10210-10212, 10216-	9		Rep. Ch. 157, L. 1917
		10217, 10219	10		Omitted

TABLE OF SESSION LAWS.

1915

Ch.	Sec.	Code	Ch.	Sec.	Code
11		2632-2633	74		Omitted
12		608-611	75		Rep. Ch. 238, L. 1921 and Ch. 109, L. 1921
13		Rep. Ch. 19, Ex. L. 1918	76		Rep. Ch. 109, L. 1921
14		See 12075-12077	77		202 and 204-205
15		9501-9515	78		200
16		See 5148	79		Rep. Ch. 143, L. 1917
17		8352	80		Rep. Ch. 143, L. 1917
18		8937	81		1813
19		895-896	82		6508
20		1764	83		6386-6389
21		Rep. Ch. 144, L. 1921	84		214
22		See 9112	85		See 440
23		See 8359-8362	86		See 10480-10487
24		Omitted	87		Rep. Ch. 143, L. 1917
25		8366-8374	88	1	5905
26		175-178		2	5994
27		11478	89	1-16	6014-6029
28		Rep. Ch. 109, L. 1921		16-a-b-c-d-e-f	6030-6035
29		7162-7165		17-67	6036-6086
30		Omitted	90		6094
31		Rep. Ch. 81, L. 1921	91		See 2211
32		4614 and 4616-4617	92		11039
33		8823	93	1-22	Rep. Ch. 147, L. 1917
34		3333-3337		23-45	Rep. Ch. 109, L. 1921
35		8974	94	1	8283
36		11482		2	See 8291
37		Rep. Ch. 91, L. 1921	95		1113-1132
38		Omitted	96	1-54	2816-3033
39		Rep. Ch. 9, Ex. L. 1921		55a-55b	3039
40		440	97		320-324
41		Rep. Ch. 109, L. 1921	98		Rep. Ch. 109, L. 1921
42		5853-5855	99	1	3626
43		4139-4146		2	Rep. Ch. 216, L. 1921
44		7251-7252	100		Rep. Ch. 56, L. 1921
45		4563-4575	101		Rep. Ch. 135, L. 1919
46		Omitted	102		Omitted
47		Omitted. See Const. Art. 12, Sec. 15	103		1910b
48		Omitted	104		2730-2736
49		5127	105		Omitted
50		Omitted	106		Omitted
51		Omitted	107		Rep. Ch. 173, L. 1917
52		See 12288	108		Rep. Ch. 173, L. 1917
53		Omitted	109		Rep. Ch. 109, L. 1921
54		See 4487	110		See 715-735
55		11180-11183	111		12176
56		Omitted	112		1033
57		See 4270	113		9479-9488
58		5934-5936	114		4998
59		Rep. Ch. 143, L. 1917	115		1275
60		Rep. Ch. 173, L. 1917	116		11425
61		5834	117		11422-11424
62		See 4369	118		6345-6354
63		6112-6113	119		1280-1282
64		2111-2112	120		9435
65		Rep. Ch. 75, L. 1917	121		See 3761
66		1814	122	1	553
67		Omitted		2-6	545-549
68		Rep. Ch. 143, L. 1917		7	554
69		10912-10913		8-15	555-562
70		See 4741		16-31	566-581
71		Rep. Ch. 147, L. 1917		32-36	582-586
72		Rep. Ch. 219, L. 1919		26	704
73		See 217	123		Rep. Ch. 147, L. 1921
			124		See 3764
			125		8291

TABLE OF SESSION LAWS.

1915

Ch.	Sec.	Code	Ch.	Sec.	Code
126		824-825	142	8	5249
127		2076-2081		9	5258
128		8608	143	1-3	5259-5261
129		5790		3a	5262
130		Void. Amd. Act Rep. Ch. 122, L. 1915		4-12	5263-5271
131	1	See 3324	144		Omitted
	2-3-4	3325-3327	145	1	7170
132		Rep. Ch. 216, L. 1921		2	7174
133		3365-3367 and 3372- 3373		3	7189
134		3170-3183		4	7195
135		See 9387		5	7201
136		12489-12492		6	7202
137		11388		7	7203
138		See 3754		8	7204
139		Rep. Ch. 226, L. 1919		9	7206
140		Rep. Ch. 157, L. 1917		10	7207
141	Ch. 1-4	Superseded by Ch. 172, L. 1917		11	7210
	Ch. 5	1-4 1703-1706		12	See 7213
	Ch. 5	5 1712		13	7214
	Ch. 6	1-16 1726-1741		14	7232
	Ch. 7	1-3 1715-1717		15	See 7233
	Ch. 8	1-8 1744-1751		16	See 7235
	Ch. 9	Rep. Ch. 109, L. 1921		17	7238
	Ch. 10	1752		18	7239
142	1	See 5226		19	7249
	2	5227		20	7258
	3	5229		21	See 7260
	4	5230	146		2615-2619
	5	5232	147		Rep. Ch. 129, L. 1921
	6	5235	148		See 4462
	7	5240	149		Rep. Ch. 225, L. 1921.
					See note to 4462
					Farm Loans, Initia-
					tive Act 1914
					Rep. Ch. 109, L. 1921

1917

Ch.	Sec.	Code	Ch.	Sec.	Code
1		9484	28		4488-4494
2		3821	29		11188-11192
3		9024	30		3079
4		Superseded by Ch. 124, L. 1917	31		4527
5		11725	32		Omitted
6		4933	33		See 2209
7		10881-10882	34		12510
8		11987	35		Omitted
9		11579	36		Omitted
10		5043-5044	37		9112-9116
11		1820	38		557
12		1198	39		11243-11244
13		5571-5580	40		Rep. Ch. 14, Ex. L. 1921
14		5025	41		5166-5167
15		2169	42		See 1173
16		12075-12077	43		3547-3549
17		2430-2433	44		48
18		3076-3078	45		8375-8377
19		See 4286-4237	46		310-316
20		8893	47		9033-9034
21		Omitted. See 4349	48		11479-11480
22		6902-6904	49		5041-5042
23		See 5447-5448	50		Omitted
24		6611-6612	51		3253-3259
25		11702	52		6613-6619
26		2649	53		Omitted
27		5194	54	1	903

TABLE OF SESSION LAWS.

1917

Ch.	Sec.	Code	Ch.	Sec.	Code
54	2-4	909-911	105		See 1281
	5-8	Rep. Ch. 109, L. 1921	106		See 1632
	9	912	107		442
55		Omitted. See 4356	108		Omitted
56		Omitted. See 4310	109		3771-3772
57		12508	110	1	975
58		Omitted		2	980
59		3407	111		Omitted
60		12456	112		23
61		See 1015	113		4427-4440
62		See 3403-3406	114	1-7	1302-1308
63		1707-1714		8	1086
64		1825, 1832		9	1309
65		3401-3402			78
66		11505	115		See 202
67		6584-6585	116		Omitted
68		4796	117		2396-2398
69		1023	118	1	4980
70		3076-3078	119	2	4981
71		4428		3	4986
72		See 3324		4	4987
73		Omitted		5	4993
74		See 3384-2389		6	See 4994
75	1-6	1755-1760	120		6170
	7-8	1742-1743	121		2503-2510
	9	See 1735	122		See 3212
	10	1761	123		860
	11	1754 and 1762	124		1928-1945
	12	See 1763	125		3396-3400
76		See 4741	126		2644-2646
77		11017-11019	127		1054
78		11020	128	1	3159
79		2296-2304		2	3161
80		10904-10907		3	3166
81	1	973	129		2786-2804
	2	1015	130		Rep. Ch. 9, Ex. L.
	3	See 1052			1921
	4	1061	131		4545-4550
	5	1078	132		6777
	6	1214	133		Omitted
	7	987	134		824
82		Rep. Ch. 5, Ex. L.	135		3833
		1919	136		See 6069
83		10480-10487	137	1	4563
84		4929-4931		2	4565
85		8815		3	4566
86		11159		4	4567
87		2305-2313	138		4797-4798
88		4918	139		Omitted. See 4342
89		Rep. Ch. 56, L. 1921	140		6390-6393
90		8944-8960	141		7160-7161
91		5138-5139	142		Omitted. See Const.,
92	1-2	See 3034-3035			Art. 12, Sec. 2
	3-6	3036-3039	143	1	11100
93		1219-1223		2	Rep. Ch. 9, Ex. L.
94		1190 and 1192			1921
95		11123-11133		3-5	11101-11103
96		See 4495-4500		6	Rep. Ch. 9, Ex. L.
97		6108-6109			1921
98		Rep. Ch. 109, L. 1921		7-14	11104-11111
99		See 1919		15	Rep. Ch. 9, Ex. L.
100		2435			1921
101		591		16-21	11112-11117
102		Rep. Ch. 109, L. 1921		22-26	Rep. Ch. 9, Ex. L.
103		2463			1921
104		9833		27	11118

TABLE OF SESSION LAWS.

1917

Ch.	Sec.	Code	Ch.	Sec.	Code
143	28	Rep. Ch. 9, Ex. L. 1921	168		2659-2660
	29	11119	169	1	See 350
30-32		Rep. Ch. 9, Ex. L. 1921		2	See 351
33-34		11120-11121		3	See 354
35-36		Rep. Ch. 9, Ex. L. 1921		4	See 355
	37	11122		5	356
	38	Rep. Ch. 9, Ex. L. 1921		6-7	357-358
		11316-11317		8	See 359
144		1652-1675		9	See 360
145		1946-1948		10	See 361
146		Rep. Ch. 109, L. 1921		11	362
147		6030-6035	170	12	See 363
148		6659			Rep. Ch. 10, Ex. L. 1921
149		1583-1591	171		2677-2711
150		2207-2208	172	Ch. 1	1610-1616
151		5400-5409		Ch. 2	1617-1620
152	1-10	Rep. Ch. 44, L. 1919		Ch. 3	1621-1634
	11	5410-5499		Ch. 4	1635-1651
	12-101	Rep. Ch. 44, L. 1919		Ch. 12	1676-1702
	102	5500-5516	173	1-7	Rep. Ch. 238, L. 1921
153	1	7166		8-19	Rep. Ch. 193, L. 1921
	2	7169		20	Rep. Ch. 238, L. 1921
	3	7174		21-23	3713-3715
	4	7176		24	Rep. Ch. 238, L. 1921
	5	7200		25-26	3716-3717
	6	See 7205		27	Rep. Ch. 193, L. 1921
	7	See 7210		28	3718
	8	See 7213		29	Rep. Ch. 193, L. 1921
	9	See 7233		30-33	Rep. Ch. 238, L. 1921
	10	See 7234		34	3719
154		4079-4138		35	Rep. Ch. 238, L. 1921
155		715-735		36	3720
156		Rep. Ch. 147, L. 1921		37-38	3721-3722
157		Rep. Ch. 262, L. 1921		39-40	Rep. Ch. 238, L. 1921
158		3229-3240		41-43	3723-3725
159		Omitted		44-46	Rep. Ch. 193, L. 1921
160		2499-2502		47-81	3726-3760
161		6394-6396		82	Omitted
162		See 8367		83	3761-3771
163		See 1847		84-85	3777-3778
164		6329-6330	174		Omitted. See Const., Art. 12, Sec. 15
165		9471-9473	175		Rep. Ch. 9, Ex. L. 1921
166		Omitted	176	1-3	1310-a-b-c
167		See 1276		4	1310

Extra Session 1918

Ch.	Sec.	Code	Ch.	Sec.	Code
1		Omitted	11		Rep. Ch. 77, L. 1919
2		Rep. Ch. 109, L. 1921	12		11561
3		11338	13		11501
4		Rep. Ch. 238, L. 1921	14		2236-2237
5		4618	15		8359-8362
6		11281-11283	16		Omitted
7		10740-10744	17		See 350
8		Rep. Chs. 70 and 109, L. 1921	18		736-756
9		11477	19		4640-4676
10		11474	20		Omitted
			21		5624-5637

TABLE OF SESSION LAWS.

1919

Ch.	Sec.	Code	Ch.	Sec.	Code
1		See 5216	43		See 1136
2		5993	44	1	5408
3		10955-10956		2	5447
4		Omitted. See 4321		3	5496
5		Omitted. See 4354		4	5498
6		5699		5	5499
7		4901		6	5517-5520
8		11783	45		9786
9		5356	46		10303
10		4369-4370	47		Omitted
11		3084-3089	48		2123-2129
12		5195-5199	49		2138-2146
13		4487	50		4835-4838
14		4542-4544	51	1	See 1999
15		4465		2	2000
16		10914-10915	52		See 368
17		See 1267	53		4677-4679
18		2235	54		2727
19		Omitted	55		10285
20		3338	56		4712
21		Omitted. See 4322	57		1847
22		Omitted. See 4339	58		574
23		Omitted. See 4345	59		11129
24		1998	60		11549
25		10745-10746	61		5020
26		1872-1874	62		7726
27		2552-2561	63		11369
28		6890	64		6358
29		560	65		6485
30		6264	66		5132-5133
31	1	2730	67		Rep. Ch. 147, L. 1921
	2	2732	68		2518-2519 and 2524
32	1	2714	69		2297-2298
	2	2720	70		217
	3	2723	71		439
	4	2726	72		3241-3251
33		Omitted. See 4332	73		2211
34	1	See 351	74		11302-11309
	2	See 352	75		Omitted
	3	See 353	76		2540-2542
	4	See 354	77		10737-10739
	5	See 359	78		1844
	6	See 360	79		11354
	7	See 361	80		8897
35	1	8899	81		4886
	2	8904	82		1803-1804
	3	8905	83		Omitted
	4	8906	84		See 4465
	5	8907	85		Omitted
	6	8908	86		2562-2563
	7	8919	87		1885
	8	8922	88		Omitted
	9	8924	89		Rep. Ch. 239, L. 1921
	10	9334	90		Rep. Ch. 216, L. 1921
	11	9335	91		11478
	12	9337	92		4717
	13	9338	93		163
	14	9339	94		See 4465
	15	9340	95		See 2819
36		2485-2498	96	1	7188
37		5939		2	7240
38		1318-1322		3	7253
39		4514	97	1-3	566-568
40		3603-3607		4	570
41		1535	98		3410-3413
42		3403-3406	99	1	See 6544

TABLE OF SESSION LAWS.

1919

Ch.	Sec.	Code	Ch.	Sec.	Code
99	2	6546	144		Omitted
	3	6548	145		6620-6622
	4	6549	146		7597
100	1	2840	147		3090-3091
	2	2847	148		6625-6636
	3	2899	149		Omitted. See Const., Art. 11, Sec. 5
	4	2912	150	1	3220
	5	2913		2	3221
	6	2914	151		3842-3846
	7	2915	152		8279
	8	See 2920	153		4495-4500
	9	2926	154		See 440
	10	2981	155		4273-4276
	11	2984	156		4602-4603
101		12519-12546	157		2444-2446
102		1474-1483	158		See 1276
103		2213	159		Omitted
104		Rep. Ch. 135, L. 1921	160		4713-4716
105		5655-5665	161		882-888
106		2564-2577	162		1492-1497
107		437-438	163		3374
108		Omitted	164		Rep. Ch. 9, Ex. L. 1921
109		3786-3788	165		2130
110		1753	166		Omitted
111		4916	167		3384-3389
112		202	168		Omitted
113		Rejected on refer- endum, November, 1920	169		Rejected referendum, Nov., 1920
114		9040	170		2763-2770
115		552	171		See 1919
116	1	7166	172		6707
	2	7169	173		10088
	3	7174	174	1	1930
	4	7205		2	1940
	5	7210	175		5226
	6	7213	176		8814
	7	7233	177		9151
117		3203-3216	178		See 4536
118		6146	179		2771-2774
119		9929-9932	180		See 8631-8635
120		1821	181		7152-7159
121		5968-5969	182		Rep. Ch. 9, Ex. L. 1921
122		2739	183		8276
123		436	184		Omitted
124		3127	185		Omitted
125	1	6011	186		3886
	2	9927	187	1	See 10249
126		2740		2	10253
127		Rep. Ch. 216, L. 1921		3	10254
128		Omitted	188		3896
129		4422-4426	189		6003
130		537-538	190		4551-4562
131		2739	191	1-5	1330-1334
132		Rep. Ch. 262, L. 1921		6	1412
133		Rep. Ch. 242, L. 1921		7-17	1335-1345
134		3040-3043		18-22	1347-1351
135		6150		23	1346
136		6299		24-55	1352-1383
137		1281		56-69	1384-1397
138		See 3764		70	1398
139		Rep. Ch. 238, L. 1921		71-83	1399-1411
140		Rep. Ch. 238, L. 1921			1311-1317
141		Omitted. See 4340	192		975
142		3742	193		
143		1721-1725			

TABLE OF SESSION LAWS.

1919

Ch.	Sec.	Code	Ch.	Sec.	Code
194		5590-5605	202	1	12275
195	1-8	5531-5538		2	12276
	9	Rep. Ch. 109, L. 1921		3	12279
	10-12	Omitted		4	12280
196	1	835		5	12284
	2	See 836		6	See 12288
	3	837-840		7	12293
	4	933	203		4193-4208
	5	943-944 and 947	204		1592-1602
	6	956 and 958-959, 970-972	205		294-303
	7	973	206		Rep. Ch. 171, L. 1921
	8	1024-1025	207	1	1759
	9	1026-1032		2	See 1760
	10	1037		3	1763
	11	997-998	208		See 2298
	12	1013	209	1-24	Rep. Ch. 216, L. 1921
	13	See 1015		25	3585
	14	1051		26	Rep. Ch. 216, L. 1921
	15	1052		27	Rep. Ch. 216, L. 1921
	16	1056		28	3587
	17	1039		29-33	Rep. Ch. 216, L. 1921
	18	1074	210	1-2	Rep. Ch. 238, L. 1921
	19	1087		3	3720
	20	1088-1091	211		1040-1048
	21	1094	212	1	2749
	22	1095		2	2753
	23	1096-1099	213		Rep. Ch. 98, L. 1921.
	24	1100			See 2779-2785
	25	1101	214		6322
	26	1102	215		6303
	27	1103	216		6246
	28	1181	217		6266
	29	982	218		6130
	30	1173	219		4869-4871
	31	1202	220		6149
	32	1203	221		See 4867
	33	1205	222		4873-4874
	34-36	1224-1226	223	1-16	3914-3929
	37	1228		17-31	3932-3946
	38	1272	224		3142
		3722	225		4157-4172
197		See 10482	226	1	4390
198		Rep. Ch. 216, L. 1921		2-16	4393-4407
199	1-8	2622	Chiropractic		
	9	2624	Law, Initiative		
	10	2624	Measure		
	11-14	Rep. Ch. 216, L. 1921	1918	1-17	3138-3154
200		3777			
201		5638-5652			

Extra Session 1919

Ch.	Sec.	Code	Ch.	Sec.	Code
1		4677-4679	10		Rep. Ch. 216, L. 1921
2		Rep. Ch. 10, Ex. L. 1921	11		9036-9037
			12		7138
3		Rep. Ch. 216, L. 1921	13		3947-3952
4	1	1637	14		Rep. Ch. 153, L. 1921
	2	1641	15	1	1622
5		2097-2110		2	1624
6		Rep. Ch. 14, Ex. L. 1921		3	1626
				4-5	1632-1633
7		See 4867	16		4391-4392
8		4680-4711	17		7212
9		See 5216	18		1827

TABLE OF SESSION LAWS.

Extra Session 1919

Ch.	Sec.	Code	Ch.	Sec.	Code
19		563-565	26	1	1520
20		Rep. Ch. 10, Ex. L. 1921		2	Appropriation clause omitted
21		Rep. Ch. 118, L. 1921	27		Omitted
22		1932	28		Rejected referendum, Nov., 1920
23		6600-6601			4836
24		4741	29		Rep. Ch. 134, L. 1921
25		Omitted	30		8790-8795
			31		

1921

Ch.	Sec.	Code	Ch.	Sec.	Code
1		270	47		3034-3035
2		2198-2200	48		4994
3		7176	49		6549
4	1	3	50		Rep. Ch. 216, L. 1921
	2	4	51		3061
	3	15	52		3324
	4	16	53		2118
	5	17	54		2420
5		51	55		4924-4928
6		42	56		5918-5929
7		394	57		11371
8		510	58		10376
9		519	59		10426-10427
10		861	60		11410
11		930	61		12495
12		2712	62		12503
13		3414	63		1019
14		4226-4227	64		See 2296
15		4147	65		1199
16		5148	66		3086
17		5142	67		143
18		10249	68		1487
19		5149	69		12289
20	1	3448	70		Omitted
	2	3458	71		8367
	3	3466	72		8273
	4	3467	73		518
21		10-11	74		4228
22		3418	75	1	1135
23		3417		2	1136
24		2021		3	1137
25		2443		4	1139
26		2436			11124
27		4373	76		1568-1569
28		4454	77		1913-1915
29		5074	78		3444-3446
30		6117	79		6004
31		6129	80		2064-2067
32		6177	81		4694
33		6934	82		5613-5614
34		8806	83		2495-2496
35		8839	84		4050-4052
36		9409	85		149-150
37		9621	86		2209
38		9693	87		634-635
39		9964	88		3632
40		10359	89		3149
41		11226	90		145-146
42		12494	91		90
43		12496	92		6426-6427
44		3438	93		6069
45		6602	94		5903
46		1215	95		6357
			96		

TABLE OF SESSION LAWS.

1921

Ch.	Sec.	Code	Ch.	Sec.	Code
97		1244-1251	159		6623-6624
98		2779-2785	160	1	3459
99		5666-5668		2	3460
100		9799		3	Rep. Ch. 109, L. 1921
101		Rep. Ch. 216, L. 1921		4	3463
102		10975		5	3464
103		1919-1920		6	3465
104		1252-1254		7	3472
105		1294-1301	161		5175-5182
106		1269	162		Omitted
107		6339-6344	163		298
108		273-275	164		976-979
109		5539-5544	165		5216
110		1038	166		5251
111		9291	167		5047-5048
112		192-197	168		4506-4513
113		Omitted	169		3339-3340
114		3773-3774	170		3309
115		11191	171		3346-3350
116		7139	172		9033
117		8383-8386	173		8271-8272
118		Omitted	174		4362-4368
119		1806-1808	175		2589-2590
120		7173	176		3796
121		9275	177		2069
122		5547-5553	178		281-283
123		11580	179		9038-9039
124		2461	180		2082-2087
125		3550-3552	181		6261
126		135	182		169
127		8348	183	1	355
128		198		2	363
129		7265-7364	184		2634-2639
130		4497	185		3535
131		520	186		1522
132		1276-1277	187		2043-2047
133		1576	188		2409
134		Omitted	189		1286-1293
135		Omitted	190		1267
136		1889	191		271-272
137		1862	192		44-47
138		1664	193		3650-3680
139		4545 and 4550	194		4536
140		4229-4232	195		4056-4078
141	1-2	350-351	196	1	2840
	3	353		2-4	2916-2918
	4	359		5	2920
	5	361		6	2991
142		1718-1720		7	3000
143	1	4270	197		284-293
	2	4272	198		5097-5099
144		3301-3308	199		1760
145		10180-10181	200		2344-2355
146		2099-2107	201		4421
147		4574-4601	202	1-12	3189-3200
148		7235		13	Omitted
149		3044-3051		14-15	3201-3202
150		2311	203		384
151		4867	204		4874
152		6397-6425	205		4305-4361
153		3953-4025	206	1	671
154		2511-2514		2	673
155		2316-2326	207		Rep. Ch. 10, Ex. L.
156		2381-2396			1921
157		276-280	208		170-173
158		7234	209		224-230

TABLE OF SESSION LAWS.

1921

Ch.	Sec.	Code	Ch.	Sec.	Code
210		9079-9080	230		9449
211		5653-5654	231		3379
212		7260-7261	232		9427
213		10535	233		6428-6449
214		6265	234		10324-10327
215		8631-8635	235		567
216	1-30	3555-3584	236		7216-7225
	31	3586	237		2089-2096
	32-36	3588-3592	238		3681-3707
	37-44	3608-3615	239		2024-2031
	45-49	3617-3621	240	1	1060
	50-51	3624-3625		2	1062
	52-55	3627-3630	241		443
	56-70	3635-3649	242		1141-1156
217		6087	243		5262
218		7907	244		3553-3554
219		8808-8811	245		Omitted
220		7135	246		763-764 and 767 and 773
221		8274	247		Omitted
222		3380-3382	248		1999
223		8363-8365	249		Omitted
224		3775-3776	250		6586
225	1	9387	251	1	12288
	2	9388		2	12297
	3	9390		3	12301
	4	9394	252		7226-7231
	5	9396	253		1204
	6	9398	254		2819
	7	9399	255		11087-11094
	8	9400	256		2597-2599
	9	9402	257		10482-10487
	10-11	9731-9732	258		2297-2298
	12-13	9745-9746	259		6070
	14	9749	260		See 180
	15	12041	261	1	2273
	15a	12044		2	2295
	16	12045	362		3260-3295
	17	12050	263		5946
	18	12074	264		6651 and 6653-6654
226		6544	265		5581-5589
227		4501-4505	266		2397-2408
228	1	7093	267		11095-11099
	2	7096	Tax Levy, Initiative Measure, 1920		
	3	7100			2148
	4-12	7119-7127			
229		464-467			

Extra Session 1921

Ch.	Sec.	Code	Ch.	Sec.	Code
1	1	663-664	10		1783-1802
2		5545-5546	11		Omitted
3		2327-2343	12		1211-1212
4		7236	13		5615-5623
5		Omitted	14		10377-10400
6		180	15		2356-2366
7		7176	16		2367-2380
8		3848-3858	17		1253-1254
9		11048-11086			

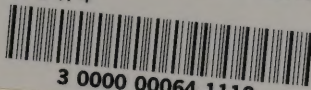
DOES NOT
CIRCULATE

State Law Library Of Montana

KFM9030 1921 .A2

The revised codes of Montana of 1921 : c

c. 3 v. 4



3 0000 00064 1112

Bound by

The Cooperative Bindery

Law Book Printers
and Binders

330 Jackson Street
San Francisco

